

City of Lake Stevens Vision Statement



By 2030, we are a sustainable community around the lake with a vibrant economy, unsurpassed infrastructure and exceptional quality of life.

CITY COUNCIL REGULAR MEETING AGENDA
Lake Stevens School District Educational Service Center (Admin. Bldg.)
12309 22nd Street NE, Lake Stevens
Monday, January 28, 2013 - 7:00 p.m.

NOTE: **WORKSHOP ON VOUCHERS AT 6:45 P.M.**

CALL TO ORDER: 7:00 p.m.
Pledge of Allegiance

ROLL CALL:

GUEST BUSINESS:

CONSENT AGENDA:

*A.	Approve January 2013 vouchers.	Barb
*B.	Approve City Council regular meeting minutes of January 14, 2013.	Norma
*C.	Authorize Interlocal Agreement for Furnishing Equipment Maintenance/repair Service with Snohomish County.	Barb
*D.	Authorize Prosecuting Attorney contract with Zachor & Thomas, Inc.	Jan

ACTION ITEMS:

*A.	Design Review Board appointments.	Vern
*B.	Planning Commission appointment.	Vern
*C.	First reading of Ordinance No. 881, Title 10 Parks and Recreation amendments.	Becky/ Dan
*D.	Authorize Capital expenditure for the Police Department facility.	Mick
*E.	Approve Phosphorus Plan.	Mick
*F.	Emergency declaration for landslide on E. Lakeshore Drive.	Mick
*G.	Award of contract for the 20 th Street NE pedestrian connection.	Mick

DISCUSSION ITEMS:

*A.	Shoreline Master Program update.	Becky/ Karen
*B.	2012 Buildable Lands Report.	Becky
*C.	2035 Growth Target Allocation.	Becky

COUNCIL PERSON'S BUSINESS:

Lake Stevens City Council Regular Meeting Agenda

January 28, 2013

STAFF REPORTS:

MAYOR'S BUSINESS:

**INFORMATION
ITEMS:**

**EXECUTIVE
SESSION:**

ADJOURN:

* ITEMS ATTACHED	** ITEMS PREVIOUSLY DISTRIBUTED	# ITEMS TO BE DISTRIBUTED
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THE PUBLIC IS INVITED TO ATTEND

Special Needs

The City of Lake Stevens strives to provide accessible opportunities for individuals with disabilities. Please contact Steve Edin, City of Lake Stevens ADA Coordinator, (425) 377-3227, at least five business days prior to any City meeting or event if any accommodations are needed. For TDD users, please use the state's toll-free relay service, (800) 833-6384, and ask the operator to dial the City of Lake Stevens City Hall number.

NOTICE:

All proceedings of this meeting are audio recorded, except Executive Sessions

**BLANKET VOUCHER APPROVAL
 2013**

We, the undersigned Council members of the City of Lake Stevens, Snohomish County, Washington, do hereby certify that the merchandise or services hereinafter specified have been received and that the following vouchers have been approved for payment:

Payroll Direct Deposits	906745-906798	\$127,800.92
Payroll Checks	34643	\$2,461.91
Electronic Funds Transfers	548-551	\$3,456.21
Claims	34653-34687	\$69,252.50
Void Checks		
Tax Deposit(s)	1/15/2013	\$52,215.93
Total Vouchers Approved:		\$255,187.47

This 28th day of January 2013:

 Mayor

 Councilmember

 Finance Director

 Councilmember

 Councilmember

 Councilmember



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Direct Deposit Register

15-Jan-2013

Wells Fargo - AP

Lake Stevens

Direct Deposits to Accounts

15-Jan-2013	<u>Vendor</u>	<u>Source</u>	<u>Amount</u>	<u>Draft#</u>	<u>Bank Name</u>	<u>Transit</u>	<u>Account</u>
13027	DEPARTMENT OF LICENSING	C	\$18.00	548	Wells Fargo	123456789	123123123
9407	Department of Retirement (Pers	C	\$1,912.50	549	Wells Fargo	121000248	4159656917
9408	NATIONWIDE RETIREMENT SOL	C	\$1,123.25	550	Wells Fargo	121000248	4159656917
9405	Wash State Support Registry	C	\$402.46	551	Wells Fargo	121000248	4159656917
Total:			\$3,456.21		Count:	4.00	

Direct Deposit Summary

<i>Type</i>	<i>Count</i>	<i>Total</i>
C	4	\$3,456.21

Pre-Note Transactions

Detail Check Register

24-Jan-13

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount		
34653	28-Jan-13	13328	ACES			\$329.00
9086			Safety mtg - Attitudes and Behavior	\$329.00	\$0.00	\$329.00
			001003517620000 Admin. Safety program			\$77.64
			101016517620000 safety program			\$146.08
			410016517620000 safety program			\$105.28
34654	28-Jan-13	13243	Atlas Business Solutions, Inc			\$192.00
IVC073721			Schedule Maintenance	\$192.00	\$0.00	\$192.00
			001008521003104 Law Enforcement-Operating Cost			\$192.00
34655	28-Jan-13	166	Bickford Motors, Inc.			\$362.70
1021336			Repair PW11 sweeper driver side wi	\$362.70	\$0.00	\$362.70
			101016542004800 Street Fund - Repair & Mainten			\$362.70
34656	28-Jan-13	179	Blumenthal Uniforms			\$565.09
974778-01			Jamison patrol shirts	\$100.32	\$0.00	\$100.32
			001008521002600 Law Enforcment Clothing			\$100.32
975590			lithium batteries	\$89.42	\$0.00	\$89.42
			001008521003100 Law Enforcement - Office Suppl			\$89.42
978684			Hingtgen Uniforms	\$350.22	\$0.00	\$350.22
			001008521002600 Law Enforcment Clothing			\$350.22
978725			Lorentzen/Duty underbelt	\$25.13	\$0.00	\$25.13
			001008521002600 Law Enforcment Clothing			\$25.13
34657	28-Jan-13	11952	Carquest Auto Parts Store			\$258.46
2421-184877			Motor oil	\$66.81	\$0.00	\$66.81
			101016542004800 Street Fund - Repair & Mainten			\$66.81
2421-184938			Filters/oil	\$81.82	\$0.00	\$81.82
			101016542004800 Street Fund - Repair & Mainten			\$81.82
2421-184953			Oil/fuel/Hyd filters	\$25.23	\$0.00	\$25.23
			101016542004800 Street Fund - Repair & Mainten			\$25.23
2421-184968			Filters/oil	(\$3.81)	\$0.00	(\$3.81)
			101016542004800 Street Fund - Repair & Mainten			(\$3.81)
2421-185047			Halogen headlight	\$28.64	\$0.00	\$28.64

Detail Check Register

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Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount		
001008521004800			Law Enforcement - Repair & Mai	\$28.64		
2421-185102			Oil filter	\$7.65	\$0.00	\$7.65
101016542004800			Street Fund - Repair & Mainten	\$7.65		
2421-185155			Heater core	\$52.12	\$0.00	\$52.12
410016542404800			Storm Water - Repairs & Maint.	\$52.12		
34658	28-Jan-13	274	City of Everett			\$1,085.00
I13000066			Animal shelter svcs Dec 2012	\$1,085.00	\$0.00	\$1,085.00
001008539004100			Code Enforcement - Professiona	\$1,085.00		
34659	28-Jan-13	13030	COMCAST			\$106.55
01/13 0443150			Internet services	\$106.55	\$0.00	\$106.55
001003513104200			Administration-Communications	\$2.13		
001003514104200			City Clerks-Communications	\$6.39		
001003516104200			Human Resources-Communications	\$2.13		
001003518104200			IT Dept-Communications	\$4.26		
001004514234200			Finance - Communications	\$4.26		
001007558004200			Planning - Communication	\$17.05		
001008521004200			Law Enforcement - Communicatio	\$61.80		
001010576804200			Parks - Communication	\$2.84		
101016542004200			Street Fund - Communications	\$2.84		
410016542404200			Storm Water - Communications	\$2.85		
34660	28-Jan-13	91	Corporate Office Supply			\$607.45
134574i			Folders/markers/soap/towells/envel	\$92.72	\$0.00	\$92.72
001013519903100			General Government - Operating	\$92.72		
135716i			Supplies	\$136.21	\$0.00	\$136.21
001003513103100			Administration - Office Supply	\$79.95		
001013519903100			General Government - Operating	\$56.26		
135727i			office supplies	\$313.52	\$0.00	\$313.52
001008521003100			Law Enforcement - Office Suppl	\$313.52		
135862i			File Folders Leter - 8.5 x 11 - 1/3 Cu	\$65.00	\$0.00	\$65.00
001004514233100			Finance - Office Supplies	\$65.00		
34661	28-Jan-13	12369	DELL MARKETING L.P.			\$8,077.65
XJ2ND1CP7			3 new computers	\$4,236.15	\$0.00	\$4,236.15
510013519606400			Purchase Computer Equipment	\$4,236.15		

Detail Check Register

24-Jan-13

Lake Stevens

Check No	Check Date	VendorNo	Vendor			Check Amount
XJ2NR42T6			Support Contract for 2 Servers	\$3,841.50	\$0.00	\$3,841.50
510013519103101			License Renewal/Annual Maint	\$3,841.50		
34662	28-Jan-13	13782	Department of Revenue			\$980.98
Q4.2012			Q4.2012 Leasehold Excise Tax	\$980.98	\$0.00	\$980.98
633013586000005			Leasehold Excise Tax Remit	\$980.98		
34663	28-Jan-13	485	Employment Security Department			\$3,805.03
01/2013			Q4.2012 UI Tax 94513410 0	\$3,805.03	\$0.00	\$3,805.03
501000517007800			Payments To Claiments	\$3,805.03		
34664	28-Jan-13	13764	Frontier			\$97.24
01/13 42533408350116			Phone line	\$97.24	\$0.00	\$97.24
001013519904200			General Government - Communica	\$32.41		
101016542004200			Street Fund - Communications	\$32.42		
410016542404200			Storm Water - Communications	\$32.41		
34665	28-Jan-13	13010	Grainger			\$24.73
9036571769			Car wash liquid	\$24.73	\$0.00	\$24.73
101016542003102			Street Fund Operating Costs	\$24.73		
34666	28-Jan-13	673	Home Depot			\$55.47
1012193			Mailbox and lettering	\$55.47	\$0.00	\$55.47
101016542004800			Street Fund - Repair & Mainten	\$55.47		
34667	28-Jan-13	12773	IACP			\$120.00
1001043984			IACP 2013 Mmbrshp	\$120.00	\$0.00	\$120.00
001008521004900			Law Enforcement - Miscellaneou	\$120.00		
34668	28-Jan-13	13232	Integra Telecom, Inc			\$887.27
10498838			Phone service	\$887.27	\$0.00	\$887.27

Detail Check Register

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Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount	
001003513104200			Administration-Communications	\$6.64	
001003514104200			City Clerks-Communications	\$7.75	
001003516104200			Human Resources-Communications	\$7.19	
001003518104200			IT Dept-Communications	\$18.81	
001004514234200			Finance - Communications	\$14.94	
001007558004200			Planning - Communication	\$55.23	
001007559004200			Building Department - Communci	\$36.87	
001008521004200			Law Enforcement - Communicatio	\$141.78	
001010575304200			Historical - Communications	\$36.87	
001013519904200			General Government - Communica	\$281.45	
001013555504200			Commnity Center-Communication	\$36.87	
101016542004200			Street Fund - Communications	\$120.26	
410016542404200			Storm Water - Communications	\$122.61	
34669	28-Jan-13	13386	Jerad Wachtveitl		\$63.00
02/20/12			Travel for Training	\$63.00	\$0.00
001008521004300			Law Enforce - Travel & Mtgs	\$63.00	
34670	28-Jan-13	13885	Lake Industries LLC		\$270.00
25769			Haul away storm drainage spoil mat	\$75.00	\$0.00
410016542404800			Storm Water - Repairs & Maint.	\$75.00	
25772			Haul away storm drainage spoil mat	\$60.00	\$0.00
410016542404800			Storm Water - Repairs & Maint.	\$60.00	
25782			Haul away storm drainage spoil mat	\$45.00	\$0.00
410016542404800			Storm Water - Repairs & Maint.	\$45.00	
25787			Haul away storm drainage spoil mat	\$90.00	\$0.00
410016542404800			Storm Water - Repairs & Maint.	\$90.00	
34671	28-Jan-13	626	Lake Stevens Chamber of Commer		\$120.00
3075			2013 membership	\$120.00	\$0.00
001013519904900			General Government - Miscellan	\$120.00	
34672	28-Jan-13	854	Lake Stevens Mini Mart		\$16.76
12360			Fuel	\$16.76	\$0.00
001008521003202			Boating - Fuel	\$16.76	
34673	28-Jan-13	12751	LAKE STEVENS POLICE GUILD		\$992.50
01/15/2013			Union Dues	\$992.50	\$0.00
001000281000000			Payroll Liabilities	\$992.50	

Detail Check Register

24-Jan-13

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount	
34674	28-Jan-13	13988	NCW Chptr of ICC		\$295.00
Skinner			New Building Code Training for Larr	\$295.00	\$0.00
001007559004300			Building Dept - Travel & Mtgs	\$295.00	
34675	28-Jan-13	13992	Northup Group/Dr Bill Ekemo		\$340.00
2646			Pre Employment Psych Eval	\$340.00	\$0.00
001008521004100			Law Enforcement - Professional	\$340.00	
34676	28-Jan-13	13733	Ogden Murphy Wallace		\$39.60
703030			Professional Services	\$39.60	\$0.00
001013519904100			General Government - Professio	\$39.60	
34677	28-Jan-13	1140	PLATT ELECTRIC SUPPLY		\$41.54
3112144			Parts	\$41.54	\$0.00
101016542003102			Street Fund Operating Costs	\$41.54	
34678	28-Jan-13	12520	PUBLIC SAFETY TESTING		\$1,194.42
2012-4911			Background ck new hire	\$1,194.42	\$0.00
001008521004100			Law Enforcement - Professional	\$1,194.42	
34679	28-Jan-13	11869	PUGET SOUND ENERGY		\$691.68
01/13 1294748676			Utilities - Gas	\$380.07	\$0.00
001010576804700			Parks - Utilities	\$126.69	
101016542004700			Street Fund - Utilities	\$126.69	
410016542404701			Storm Water Utilities	\$126.69	
01/13 8866053005			Utilities - Gas	\$311.61	\$0.00
001008521004700			Law Enforcement - Utilities	\$311.61	
34680	28-Jan-13	1382	Snohomish County Public Works		\$18,256.33
I000321982			Vehicle Repairs & Signs	\$18,256.33	\$0.00
001008521004800			Law Enforcement - Repair & Mai	\$7,408.15	
001008521004802			LE - Boating R&M	\$1,105.04	
101016542004800			Street Fund - Repair & Mainten	\$9,193.71	
101016542640000			Street Fund - Traffic Control	\$549.43	
34681	28-Jan-13	1356	SNOPAC		\$28,946.60
5753			Dispatch Services	\$26,195.76	\$0.00
001008528005100			Law Enforcement - Snopac Dispa	\$26,195.76	
5777			Access Assessment	\$1,025.84	\$0.00
001008528005100			Law Enforcement - Snopac Dispa	\$1,025.84	

Detail Check Register

24-Jan-13

Lake Stevens

Check No	Check Date	VendorNo	Vendor		Check Amount
5786			VRM Reimbursement	\$1,725.00	\$0.00 \$1,725.00
		001008528005100	Law Enforcement - Snopac Dispa	\$1,725.00	
34682	28-Jan-13	13891	Tacoma Screw Products Inc		\$68.20
30308147			Silicone Caulk	\$68.20	\$0.00 \$68.20
		101016542003102	Street Fund Operating Costs	\$68.20	
34683	28-Jan-13	13045	UPS		\$33.97
74Y42023			Evidence shipping	\$19.39	\$0.00 \$19.39
		001008521004200	Law Enforcement - Communicatio	\$19.39	
74Y42522			Evidence shipping	\$14.58	\$0.00 \$14.58
		001008521004200	Law Enforcement - Communicatio	\$14.58	
34684	28-Jan-13	1579	VILLAGE ACE HARDWARE		\$125.28
36632			Hose/Tape/Tire gauge	\$30.90	\$0.00 \$30.90
		101016542004800	Street Fund - Repair & Mainten	\$30.90	
36653			electrical plugs	\$39.05	\$0.00 \$39.05
		001010576803103	Parks-Lundeen-Operating Costs	\$39.05	
36654			Welding supplies	\$36.88	\$0.00 \$36.88
		101016542003102	Street Fund Operating Costs	\$36.88	
36727			Wheeled garbage can	\$18.45	\$0.00 \$18.45
		101016542003102	Street Fund Operating Costs	\$18.45	
34685	28-Jan-13	12194	WA Dept of Ecology		\$150.00
Galuska			Shoreline training for Karen and And	\$75.00	\$0.00 \$75.00
		001007558004300	Planning - Travel & Mtgs	\$75.00	
Watkins			Shoreline training for Karen and And	\$75.00	\$0.00 \$75.00
		001007558004300	Planning - Travel & Mtgs	\$75.00	
34686	28-Jan-13	1602	WACA		\$35.00
2013			WACA 2013 Mmbrshp	\$35.00	\$0.00 \$35.00
		001008521004900	Law Enforcement - Miscellaneou	\$35.00	
Total Of Checks:					\$69,234.50

Detail Check Register

24-Jan-13

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount		
34687	24-Jan-13	13836	SCCFOA			\$18.00
01/24/13		SCCFOA 1/24/13 MTG		\$18.00	\$0.00	\$18.00
001004514234300		Finance - Travel & Mtgs		\$18.00		
Total Of Checks:						\$18.00

**CITY OF LAKE STEVENS
REGULAR CITY COUNCIL MEETING MINUTES**

Monday, January 14, 2013
Lake Stevens School District Educational Service Center (Admin. Bldg.)
12309 22nd Street N.E. Lake Stevens

CALL TO ORDER: 7:00 p.m. by Mayor Vern Little

COUNCILMEMBERS PRESENT: Todd Welch, Suzanne Quigley, Kathy Holder, Kim Daughtry, Neal Dooley and John Spencer

COUNCILMEMBERS ABSENT: Marcus Tageant

STAFF MEMBERS PRESENT: City Administrator Jan Berg, City Attorney Cheryl Beyer, Planning Director Becky Ableman, Finance Director Barb Lowe, Public Works Director Mick Monken, Human Resource Director Steve Edin, Interim Police Chief Dan Lorentzen, and City Clerk/Admin. Asst. Norma Scott

OTHERS: Tom Matlack, Fred Schmidt, Guy Mahan, Gene Williams, Brent Kirk

Excused Absence. Councilmember Spencer moved to excuse Marcus from this meeting this evening, seconded by Councilmember Dooley; motion carried unanimously. (6-0-0-1)

Guest Business. Tom Matlack, 2504 112th Drive NE, requested an update on the Shoreline Master Program (SMP). Planning Director Ableman responded the City received a formal response from Department of Ecology (DOE) on January 4. The SMP subcommittee will meet to review the changes requested by DOE. The DOE document is available to the public.

Fred Schmidt, 10420 Sandy Beach Drive, commented the aerator should be handled with great concern. The aerator has never operated as proposed. It should run from May – October.

Public Comments: Lake Stevens Phosphorous Plan. Public Works Director Monken commented that on December 10 he did an overview of the phosphorous draft plan for Council. The aerator went out of service early this year because of the high cost for repairs. There are two options being considered: continuation of aerator or alum treatment. In 1983-1984 the decision was made to install the aerator versus alum treatment. Alum binds the phosphorous. Mr. Monken reviewed the December 2012 Technical Memorandum from TetraTech. It costs annually approximately \$100,000 to operate and repair the aerator. According to TetraTech if we used the \$100,000 annually for alum, it would address the current problem and the water column. Alum seals the sediment to the bottom of the lake. It would take alum 9-12 years to address the whole lake. Mr. Monken reviewed the phosphorous treatment draft financial plan. Staff is recommending the alum treatment and leaving the aerator in the lake for about three years until we see the results of the alum treatment. Alum dosage is very low.

Councilmember Welch asked if DOE has any problems with the treatment. Public Works Director Monken responded DOE does not require a special permit and will use the existing milfoil permit, because it is considered safe and a recommended process.

Councilmember Spencer asked when the aerator was turned on and off. Gene Williams from Snohomish County Surface Water Management state the aerator is only needed when the oxygen level is low, which is usually late June to early July and runs until early November.

Phosphorous loading levels from the 1980's versus now were discussed as well as the basis for the findings.

Councilmember Quigley asked what methods citizens can use to make a difference to the lake. Public Works Director Monken responded by using best management practices and education. There is \$10,000 in the program for education.

Councilmember Spencer suggested working with the County on land clearing practices, best management practice, septic tank drainage, and residential management practices.

Councilmember Quigley asked if any city has developer regulations to protect the environment. Gene Williams commented new state law prohibits the use of phosphorus in fertilizers for current lawns.

Public comments. Brent Kirk, 25 South Davies Road, commented that over the last fifteen years there were several years that the aerator did not run and no problems were reported. Monetarily it makes since to try alum. Over the years there have been problems with the aerator. He supports staff's recommendation.

The final recommendation will be provided at the next regular meeting in two weeks.

Guest business. Guy Mahan, 18425 62 Avenue NE, Kenmore, commented there was a rezone to Commercial on Frontier Circle East, where he owns three parcels (two lots with existing duplexes and one vacant lot) that were zoned R7200 square feet (Snohomish County zoning). This rezone causes his lots (plus three other small lots) to be unbuildable and wants direction on how his lots can be removed from the Commercial zone. Planning Director Ableman will prepare a response for the next regular meeting. Planning Director Ableman commented all the parcels would need to be used together to make a commercial use. Mr. Mahan commented that is not feasible.

Consent Agenda. Councilmember Spencer moved for approval of Consent Agenda Items A-F (A. Approve December 2012 vouchers [Payroll Direct Deposits 900628-906744 for \$258,362.03, Payroll Checks 34474, 34481 for \$4,863.94, Electronic Funds Transfers 537-540 for \$4,757.71, Claims 34475-34480, 34483-34574, 34639-34642 for \$232,523.94, Void Checks 34365 for deduct of \$743.00, Tax Deposits 12.14.12, 12.31.12 for \$91,223.67 for total vouchers approved of \$590,988.29; B. Approve January 2013 vouchers [Electronic Funds Transfers 541-547 for \$133,708.98, Claims 34482, 34575-34638 for \$1,119,500.07 for total vouchers approved of \$1,253,209.05]; C. Approve City Council regular meeting minutes of December 10, 2012; D. Approve City Council special meeting minutes of December 19, 2012; E. Authorize SR92 roundabout right-of-way deed to Washington State Department of Transportation; F. Authorize Marysville Jail Services Contract Amendment No. 9), seconded by Councilmember Welch; motion carried unanimously. (6-0-01)

Executive Session. Mayor Little called for an Executive Session at the end of the meeting for ten minutes on potential litigation with action to follow.

2012 Supplemental vouchers.

MOTION: Councilmember Dooley moved to approve Supplemental 2012 vouchers Claims 34644-34652 for \$28,836.49 for total vouchers approved of \$28,836.49, seconded by Councilmember Daughtry; motion carried unanimously. (6-0-0-1)

Election of Council President and Vice-President. Councilmember Quigley moved to nominate current President (Spencer) and Vice-President (Daughtry) in those positions, seconded by Councilmember Holder; motion carried unanimously. (6-0-0-1)

Authorize Janitorial Services Agreement with Advantage Building Services. Public Works Director Monken noted as follows: current services were provided since 2009, received three bids, and current contractor did not submit the lowest bid. Advantage Building Services was low bidder which includes weekly and optional services.

MOTION: Councilmember Holder moved to approve contract for janitorial services for 2013, seconded by Councilmember Spencer; motion carried unanimously. (6-0-0-1)

20th Street SE road project strategy. Public Works Director Monken commented the following decisions need to be made: phase or complete the whole project and underground or overhead utilities. Staff recommends the following: segments/phasing, design in segments, right-of-way purchase in segments, and need to address overhead/underground conversion which includes all utilities that are overhead. Mr. Monken discussed PUD's requirement to overhead transmission lines. The strategy is to develop east to west.

Boards/Commission liaison assignments. It was the consensus of Council to keep the liaison assignments the same as last year.

Council Person's Business: Councilmembers reported on the following meetings: Daughtry – Snohomish County Cities meeting this week; and Holder – Sewer Utility Subcommittee meeting today.

Executive Session. Mayor Little called for an Executive Session at 8:40 p.m. on potential litigation for ten minutes with action to follow. Mayor Little called for a five minutes recess. The executive session convened at 8:45 p.m. and returned to the regular meeting at 8:55 p.m. Human Resource Director Edin notified the public.

Brinda Ward settlement. Councilmember Dooley moved to authorize settlement with Brinda Ward, seconded by Councilmember Holder; motion carried unanimously. (6-0-0-1)

Adjourn. Councilmember Daughtry moved to adjourn at 8:55 p.m., seconded by Councilmember Dooley; motion carried unanimously. (6-0-0-1)

Vern Little, Mayor

Norma J. Scott, City Clerk/Admin. Asst.



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LAKE STEVENS CITY COUNCIL
STAFF REPORT

Council Agenda Date: January 28, 2013

Subject: Interlocal Agreement with Snohomish County for Furnishing Equipment Maintenance/Repair Service

Contact Person/Department: Barb Lowe/ Finance Director **Budget Impact:** N/A

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL:

Authorize the Mayor to enter into an Interlocal Agreement with Snohomish County for Furnishing Equipment Maintenance/Repair Services for 2013-2017.

SUMMARY/BACKGROUND:

The Snohomish County fleet maintenance facility has provided repair and installation services to city for more than twelve years. The County services city equipment including police cars, marine vessels, and additional equipment. The public works department has specialty “heavy” equipment serviced under this agreement as well. Entering into this agreement does not prohibit the City from utilizing other vendors for similar services.

Each year an amendment to the ILA is brought forward to update pricing in accordance with County approved rates. In 2012, the labor rate was \$90.95 per hour. The current agreement breaks down labor costs by type of equipment, which had not been done in the past. According to County staff this better captures the costs related to the overhead rates for each shop. The current rate structure is as follows:

- “Small Equipment” \$60.00/hr – Small gasoline/diesel powered equipment, small garden tractors
- “Light Equipment” \$95.00/hr – Automotive/Light Duty – passenger cars, police cars, pickup trucks under 1-ton category. *This rate also covers Radio/Radar services.*
- “Heavy Equipment” \$115.00/hr – Trucks above 1-ton category, vactor truck, street sweeper, snow plows

Prices for parts remain unchanged at cost + 40% for County supplied parts and cost + 15% for vendor direct purchase parts.

In order to ensure the City is receiving competitive rates, staff researched other options for repair services. We reviewed agreements between the County and other cities to ensure prices were consistently applied; they were. We contacted local Ford and Chevy dealerships to get pricing for fleet services. Costs were significantly higher, and the service was limited to specific makes of vehicle and specialty service was not available.

We inquired with other local jurisdictions to determine whether they offered fleet services and gather pricing information. The City of Marysville and the Lake Stevens School District both provide in-house repair/maintenance services, yet are not able to offer services to outside entities at this time. The City of Everett is able to offer these services to outside entities and is willing to enter into an agreement with our City.

The City of Everett’s current rate structure is:

- “Light and Heavy Equipment” \$97.13/hr
- Radio/Radar shop \$103.86/hr
- Parts – cost + 30%

Based on these prices, the City is more expensive with regard to passenger/police vehicles and radio repairs, yet significantly less expensive for “heavy equipment.” Staff intends to review Everett’s processes and procedures in the coming weeks to determine whether this will be satisfactory option.

Because most of the equipment repair/maintenance performed for the City falls under the “light equipment” rate, we recommend continuing the relationship with Snohomish County and continuing to pursue an additional agreement with the City of Everett for “heavy equipment” service and as a backup for maintenance/repair services. Additional information regarding an ILA with the City of Everett will be brought forward as received.

APPLICABLE CITY POLICIES:

RCW 39.34 Interlocal Cooperation Act

BUDGET IMPACT:

N/A

ATTACHMENTS:

- ▶ Exhibit A: Interlocal Agreement for Furnishing Equipment Maintenance/Repair Service

Snohomish County
Department of Public Works
Fleet Management Division
3402 McDougall Avenue
Everett, WA 98201

**INTERLOCAL AGREEMENT FOR
FURNISHING EQUIPMENT MAINTENANCE/REPAIR SERVICE**

THIS AGREEMENT is entered into by and between SNOHOMISH COUNTY, a political subdivision of the State of Washington (hereinafter referred to as the “County”), and the City of Lake Stevens, a municipal corporation of the State of Washington (hereinafter referred to as the “Agency”). In consideration of the mutual promises contained in this Agreement and the mutual benefits to result therefrom, the parties agree as follows:

1. Purpose and Scope of Services. The purpose of this Agreement is to make available to the Agency equipment maintenance/repair service performed by the County, or under contracts entered into by the County, pursuant to the authority contained in RCW 39.34.080 and chapter 36.33A RCW. The County shall provide mechanical maintenance/repair service for vehicles/construction equipment owned by the Agency as listed in Exhibit “B”, which is attached hereto and incorporated herein by this reference. Additional Agency equipment may be repaired by the County as agreed in writing by the Administrators of this Agreement identified below.
2. Scheduling Work. Whenever the Agency desires to use the County services to undertake routine maintenance or repair of Agency vehicles, the Agency shall notify the County’s Everett Shop Supervisor or Communication Repair Technician for scheduling the work. To the extent the Agency vehicles are in need of scheduled maintenance or unscheduled repair, such maintenance and/or repair will be provided on an “as needed” basis at the County’s Shop Supervisor’s discretion with emergent repairs being undertaken as soon as reasonably possible.
3. Transportation. The Agency shall provide for transportation of vehicles/construction equipment to and from the County service location. In situations where the vehicle/equipment is inoperative, the County’s Shop Supervisor will determine whether the vehicle/equipment shall be towed to the County location or repaired at the Agency location.
4. Maximum Cost For Repairs--Extent of Work. The cost for each repair work order shall not exceed Five Hundred and no/100 Dollars (\$500.00) without consultation by the County with the Agency. The Agency Administrator, named below, will

advise the County whether or not to proceed with specified repairs identified for particular vehicle/equipment when charges exceed the above amount. Equipment repair estimates provided by the County are exactly that, estimates; if repair costs are estimated to exceed the original estimate provided by over \$100, the County will contact the Agency for permission to proceed with repairs.

5. Standard Specifications and Preventive Maintenance Schedule. Whenever the County has standard specifications in place for supplies or services requested by the Agency, the County shall use such specification in replacing parts and/or performing services requested. The County's Preventive Maintenance schedule shall be used for Agency equipment.
6. Service Location. Services on Agency vehicles shall be performed at the County's Everett location unless specific circumstances warrant the use of other necessary locations.
7. Wage Requirements. The County shall conduct the service in compliance with County wage requirements. Rates may vary in years subsequent to the initial year of this Agreement based upon the actual cost to the County and as provided in a written annual letter of notification to the Agency issued pursuant to subsection 7.1.d. of this Agreement.

7.1. Compensation. Compensation for services rendered during the initial period of this Agreement shall be based on rates approved annually through the Snohomish County Council budget process and formally distributed by December 1st of the calendar year. Costs will be as follows:

a. County inventory parts shall be supplied at cost + 40% for services provided in calendar year 2013 to 2017.

b. County labor shall be provided at a cost of Ninety Five and 00/100 Dollars (\$95.00) per hour for passenger car/light-duty vehicle repair services provided in calendar years 2013 to 2017; One Hundred Fifteen and 00/100 Dollars (\$115.00) per hour for heavy truck and equipment repair services provided in calendar years 2013 to 2017; Sixty and 00/100 Dollars (\$95.00) per hour for radio and radar repair services provided in calendar years 2013 to 2017; and Sixty and 00/100 Dollars (\$60.00) per hour for small power equipment repair provided in calendar years 2013 to 2017. Overtime labor shall be provided at 1.5 times the appropriate hourly rate. Equipment categories are further defined as follows:

- "Small Power Equipment" = small gasoline or diesel powered equipment; portable equipment such as chainsaws, weed-eaters, backpack blowers, water pumps, generators, and lawn mowers. This class would typically include small garden tractors and riding lawn mowers.

- “Light Equipment” = Automotive/Light Duty – Passenger cars, police cars and pickup trucks up to 1-ton category (Ford F350 equivalent).
- “Heavy Equipment” = Trucks above 1-ton category (F450 equivalent and above) and including dump trucks, vactor trucks, street sweepers, backhoes, aerial lift “bucket” trucks, road graders, snow removal equipment, and other municipal heavy equipment, usually diesel powered.

c. Vendor repairs shall be provided at County cost plus labor for transporting to and from vendor at the light equipment County labor rate, and direct purchase parts shall be supplied at cost +15%.

d. Rates for subsequent years will be determined by the County and presented in writing to the Agency. Snohomish County Fleet Management will submit a formal letter of notification to the Agency by December 1st of the year preceding the year for which the rates apply, notifying it of changes in rates of compensation for parts, labor and vendor repair costs. Such new rates shall apply to all work performed for the Agency in the subsequent year.

7.2. Records. The County shall keep reasonably itemized and detailed records covering such costs, including all categories of items listed in this section, and shall render to the Agency at the close of each calendar month an itemized statement covering all categories of items.

7.3. Payment. The Agency shall pay the County for services rendered within thirty (30) days after receipt of the statement.

8. Term/Termination/Extension. This Agreement shall take effect upon execution by the parties and shall continue in effect until December 31, 2017, unless terminated by either party upon thirty (30) days’ written notice. This Agreement is contingent upon governmental funding and local legislative appropriations. In the event that funding from any source is withdrawn, reduced, limited, or not appropriated after the effective date of this Agreement and prior to normal completion, this Agreement may be terminated by the County immediately upon notice to the Agency. The parties may extend this Agreement for an additional five (5) year term upon the mutual written agreement of the parties on a document substantially in the form attached hereto as Exhibit “A” which by this reference is incorporated herein.

9. Indemnification. The Agency shall hold harmless, indemnify, and defend, at its own expense, the County, its elected and appointed officials, officers, employees, and agents from any loss or claim for damages of any nature whatsoever arising out of the City’s or Agency’s performance of this Agreement, including claims by

the City's or Agency's employees, or third parties, except for those losses or claims for damages solely caused by the negligence or willful misconduct of the County, its elected and appointed officials, officers, employees, or agents.

The County shall hold harmless, indemnify, and defend, at its own expense, the Agency, its elected and appointed officials, officers, employees, and agents from any loss or claim for damages of any nature whatsoever arising out of the County's performance of this Agreement, including claims by the County's employees or third parties, except for those losses or claims for damages solely caused by the negligence or willful misconduct of the Agency, its elected and appointed officials, employees, or agents.

In the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the COUNTY and the AGENCY, their officers, employees, and agents, each party's liability hereunder shall be only to the extent of their respective negligence.

It is further specifically and expressly understood that the indemnification provided herein constitutes both the County's and the City's or Agency's waiver to each other only, of their respective immunity under Industrial Insurance, Title 51 RCW, solely for purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this Section shall survive the expiration or termination of this Agreement.

10. Insurance. The Agency is a member of a self-insured pool of municipal corporations that has at least \$1 million per occurrence combined single limit of liability coverage in its self insured layer that may be applicable in the event an incident occurs that is deemed to be attributed to the negligence of the member.

The County is maintains a fully-funded self-insurance program as defined in Snohomish County Code 2.90 for the protection and handling of the County's liabilities, including injuries to persons and damage to property. The self-funded program will respond if an incident occurs involving negligence of County employees acting in the scope of their employment. The County agrees to be responsible for Agency vehicles while in the County's care, custody and control.

11. Warranty. The County will repair or replace without additional charge any defective workmanship or parts provided to Agency vehicles under general daily usage by Agency employees for up to ninety (90) days after the date the work order is closed.

12. Notices. All notices required to be given by any party to the other under this Agreement shall be in writing and shall be given in person or by mail to the addresses set forth below. Notice by mail shall be deemed given as of the date the

same is deposited in the United States mail, postage prepaid, and addressed as provided in this paragraph.

AGENCY:

City of Lake Stevens
Attn: City Clerk
PO Box 257
Lake Stevens, WA 98204

COUNTY:

Snohomish County
Fleet Management Division
3402 McDougall Ave.
Everett, WA 98201

13. Administrators. Administrators of this Agreement shall be (i) Snohomish County Fleet Manager; and (ii) City of Lake Stevens Public Works Superintendent, and City of Lake Stevens Police Commander.
14. Jurisdiction. This Agreement has been made and shall be construed according to the laws of the State of Washington. In the event that either party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement, the parties agree that such actions shall be initiated in the Superior Court of the State of Washington in and for Snohomish County. The prevailing party in any litigation shall be entitled to recover its costs, including reasonable attorney's fees, in addition to any other award.
15. Independent Contractor. The parties agree and understand that the County is acting hereunder as an independent contractor and no separate legal or administrative entity is created hereby. The County shall be solely responsible for control, supervision, direction and discipline of its personnel, who shall be the employees and agents of the County and not the Agency. The County shall be solely liable to its personnel for salaries, wages, compensation and taxes arising out of the performance of this Agreement. The County's standards of performance and County personnel policies shall govern the performance of all persons performing work or services under this Agreement.
16. Severability. If any provision of the Agreement or its application to any person or circumstance is held to be invalid, such decision shall not affect the validity of the remaining portions of this Agreement or its application to other persons or circumstances.
17. Amendment. This Agreement may only be modified or amended in writing, signed by both parties hereto.
18. Entire Agreement. This Agreement represents the entire agreement between the County and the Agency, superseding all prior negotiations, representations or agreements, written or oral.

IN WITNESS WHEREOF, the parties to this Agreement have caused their names to be affixed by their official representatives this 28th day of January, 2013.

SNOHOMISH COUNTY

CITY OF LAKE STEVENS

By: _____
County Executive or Designee

By: _____
Name/Title: Vern Little, Mayor

CONTRACT TEMPLATE ONLY
REVIEWED AND APPROVED:

Gordon W. Sivley
Deputy Prosecuting Attorney
Date: April 6, 2012

ATTEST:

Norma Scott, City Clerk

Approved As To Form:



Grant K. Weed
City Attorney

EXHIBIT B

AGENCY VEHICLE/EQUIPMENT LIST

New Agreement Title: 2013 vehicle maintenance/repair service agreement

Agency: Snohomish County

City: Lake Stevens

ID#	Equipment Description	VIN/Serial #	License
PT01	1997 Bayliner/Wahoo	HIN#WJ0A01VAL697	N/A
PT20	1997 Ford CE Bus	1FDLE4052VHA37434	35466D
PT23	2006 Ford Expedition	1FMPU16516LA75983	40183D
PT24	2006 Chevrolet Colorado	1GCCS138848189762	35469D
PT26	2006 Smart VMS2 (Radar Trailer)	1K9BM11166G118006	43601D
PT28	2006 Chevrolet Impala	2D1WS581569426644	43606D
PT29	2007 Ford Expedition	1FMFU16527LA55139	44829D
PT30	2007 Ford Crown Victoria	2FAHP71W27X132673	44814D
PT31	2007 Ford Crown Victoria	2FAHP71W17X132678	43610D
PT32	2007 Ford Crown Victoria	2FAHP71W67X132675	44813D
PT33	2007 Ford Crown Victoria	2FAHP71W87X132676	44816D
PT35	2007 Ford Crown Victoria	2FAHP71W47X132674	44815D
PT37	2008 Chevrolet Impala	2G1WB58K489222056	44845D
PT38	2008 Chevrolet Impala	2G1WB58KX89179567	44842D
PT39	2008 Chevrolet Impala	2G1WB58KX89181853	44843D
PT40	2007 Dodge Caravan	1D4GP24E87B251264	44844D
PT41	2009 Chevrolet Tahoe	1GNEC03009R196837	44849D
PT43	1997 Escort Boat Trailer	405121BA6VA000002	44830D
PT44	2007 Load Rite Boat Trailer	5A4RH4V2372001212	44850D
PT45	2009 North River Boat 22'	NRB G0370 G909	N/A
PT46	2010 Ford Crown Victoria	2FABP7BV7AX125768	51081D
PT47	2010 Ford Crown Victoria	2FABP7BV9AX125769	51082D
PT48	2011 Ford Crown Victoria	2GABP7BV6BX100653	51083D
PT49	2012 Chevrolet Caprice	6G1MK5R3XCL644478	51085D
PT50	2012 Chevrolet Caprice	6G1MK5R34CL646369	52313D
PW01	1999 Chevrolet C3 1 Ton	1GBHC34R2XF006916	24956D
PW02	1990 Chevrolet K3 1 Ton	1GBHK34N2LE251506	30920D

**EXHIBIT B
INTERLOCAL AGREEMENT FOR FURNISHING
EQUIPMENT MAINTENANCE/REPAIR SERVICE
WITH CITY OF LAKE STEVENS (2013)**

PW03	2008 Ford F-150	1FTRF14WX8KD60855	44846D
PW04	2008 Ford F-150	1FTRF14W38KD60857	44847D
PW05	2008 Ford F-150	1FTRF14W18KD50856	44848D
PW06	2006 Ford Crown Victoria	2FAHP71WX3X191044	33549D
PW07	2000 Ford Crown Victoria	2FAFP71W9YX202632	24962D
PW09	1987 GMC Blue Boom	1GDM7D1G3JB500086	30283D
PW11	2007 Elgin Sweeper	49HAADB17OX61686	44831D
PW12	1992 International Sweeper	1HTSDNYL5NH406432	43604D
PW13	1997 GMC Sierra Dump	1GDKC34J8VJ501932	5236D
PW14	1997 Ford Ranger	1FTCR15XSVPA94535	51097D
PW16	1992 International Boom	1HTSDPBRONH406437	43603D
PW18	1996 Chevy W4 Cabover	J8BC4B1KXT7004668	32555D
PW19	1996 Freightliner 5 Yard Dump	1FV6HLBA6TL622734	47291D
PW22	2006 Ford Ranger	1FTZR15E16PA21477	40180D
PW23	2006 Ford F-350	1FTWW31586ED43428	40182D
PW26	2004 Sterling (Vactor truck)	2FZHATAK44AM86486	39692D
PW27	2004 Ford Crown Victoria	2FAHY71W34X152300	35467D
PW28	2002 GMC Sweeper	1GDM7C1C92J512243	44852D
PW29	Vermeer 1250 Chipper	1VRC14130T1005840	43605D
PW30	Case Max 110 Shoulder Mower	Z9BE07057	N/A
PW31	John Deer 310 Backhoe	T03103X140819	N/A
PW33	Kubota BX1800 Excavator	YU7552	N/A
PW34	Case 580 Backhoe	JJG0180672	N/A
PW35	Vermeer 625 Chipper		N/A
PW37	Blue Trailer	490ES18273S00167	40184D
PW38	John Deer 1445 Mower	TC1462X070284	N/A
PW39	Black trailer	1G9AA10118VW234509	44851D
PW40	1997 Ford 12 Yard Dump	1FDZS96V9VVA23274	44853D
PW41	2004 Chevy Astro Van	1GNEL19X34B127426	35470D
PW42	2012 Ford F-450	1FD7F4HY4CE543120	51084D
PW43	2007 Ford Crown Victoria	2FAHP71WX7X132677	44817D
PW45	2009 Case Tiger Mower	9BE07057BECC7B373111	N/A
N/A	Wells Cargo Trailer	1WC200D1634048172	64558C

**EXHIBIT B
INTERLOCAL AGREEMENT FOR FURNISHING
EQUIPMENT MAINTENANCE/REPAIR SERVICE
WITH CITY OF LAKE STEVENS (2013)**



LAKE STEVENS CITY COUNCIL
STAFF REPORT

Council Agenda Date: January 28, 2013

Subject: Contract with Zachor & Thomas, Inc. P.S. for Prosecuting Attorney Services

Contact Person/Department: City Administrator Jan Berg **Budget** \$6,000 increase over
Impact: 2013 budget

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL:

Approve Contract for Prosecuting Services with Zachor & Thomas, Inc. P.S.

SUMMARY/BACKGROUND:

Since the previous contract in 2009, the Court has made significant changes to their calendar which has required the prosecuting attorneys to appear daily on behalf of the City. In 2011 the court added a daily video in custody calendar, an interpreter calendar once a month and hearings requiring the City to appear for deferred prosecutions, stipulated continuances and victim requested termination hearings. This added workload was not captured in our previous agreement. To recognize these required added hours, the contract proposal includes a 9.7% increase for 2013. For years 2014 – 2016 a 4% increase is included (down from the previous contract amount of 5%).

To help balance the legal requirements for the public of the court system with the need to minimize the fiscal impacts of the court's requirements, the City meets quarterly with the Judge, Prosecuting Attorneys and Public Defenders. The City has been very satisfied with Zachor & Thomas as the prosecuting attorneys and recommends continuing contracting with this firm.

BUDGET IMPACT:

The 2013 contract amount of \$99,000 is \$5,996 more than the 2013 budget amount.

ATTACHMENTS:

- ▶ Exhibit A: Contract for Services

CONTRACT FOR LEGAL SERVICES

(Prosecuting Attorney for the City of Lake Stevens)

I. PARTIES

THIS AGREEMENT, effective the ____ day of January, 2013, by and between the CITY OF LAKE STEVENS, a Municipal Corporation of the State of Washington (hereinafter referred to as "City", and the law office of ZACHOR & THOMAS, Inc., P.S. (hereinafter referred to as "Prosecuting Attorney").

II. SERVICES OF THE PROSECUTING ATTORNEY

The Prosecuting Attorney shall serve at the pleasure of the City under the direction of the Mayor. The primary attorneys will be H. James Zachor, Jr. and Melanie S. Thomas Dane. Under the supervision of the Prosecuting Attorney, other attorneys may provide assistance to the Prosecuting Attorney as may be necessary. If the prosecuting attorney is unable to continue to provide services as prosecuting attorney, Prosecuting Attorney shall provide advanced notice so that the City may seek another prosecuting attorney.

II. QUALITY OF SERVICES

Prosecuting Attorney shall perform legal services as set forth hereafter in a capable and efficient manner, and in accordance with the professional and ethical standards of the Washington State Bar Association.

III. SERVICES PROVIDED

The Prosecuting Attorney shall represent the City as Prosecuting Attorney in the prosecution of criminal and criminal traffic matters (gross misdemeanors and misdemeanors). The duties of the prosecuting attorney shall include the review and signing of citations and complaints as required; review of police incident reports and supporting documents for charging determination; appearance at court hearings and trials (bench and jury trials); telephone conversations, meetings and negotiations with the police department and its officers, victims, witnesses and opposing counsels as required; preparation of documents required by the Court such as providing discovery, motions and supporting documents, jury instructions and subpoenas. The City, through its police department and such other departments, shall provide that support necessary to accomplish the prosecution of the above criminal matters. The Prosecuting Attorney shall appear at all calendars for the City of Lake Stevens which are currently scheduled by the Marysville Municipal Court, including in custody calendars. Should the court add court appearances for the prosecutor, those appearances shall be billed at our hourly rate in section IV Paragraph B until such time that a new fee proposal is adopted.

IV. FEES AND COSTS

A. Retainer. That in compensation for the services to be rendered by the Prosecuting Attorney, the City agrees to pay to the Prosecuting Attorney a monthly retainer in the sum of \$8250.00 per month, as long as the Court utilized for prosecution is located in Marysville, Washington. If the Court location for prosecution of the City criminal matters is moved from Marysville to the City of Lake Stevens or such other location, then the monthly retainer shall be renegotiated by the parties, to be effective the month of the new court appearance.

B. Additional Compensation. That if the City should require the services of the Prosecuting Attorney other than those purposes set forth here above, the Prosecuting Attorney

shall bill the City at the rate of \$125.00 per hour. This includes RALJ appeals, drug/felony forfeitures and legal services for representation in the Superior Courts. Legal services for representation in the Appellate Courts of the State of Washington or Federal Courts shall be negotiated separate from this Agreement. If no agreement is reached prior to the start of the Appellate process, the Prosecutor shall bill the City at the rate of \$150.00 per attorney hour, and \$50.00 per legal assistant hour.

C. Payment Rate Adjustment. The payment rate shall be increased each January 1st by 4%. This shall take into account the cost of doing business as well as the cost of nominal filing increases. Should the criminal filings exceed a 10% increase per calendar year, the parties shall renegotiate the terms of this fee agreement.

D. Expenses. That the City shall reimburse the Prosecuting Attorney for any reasonable out-of-pocket expenses that may be required in the performance of its duties as Prosecuting Attorney on behalf of the City. Expenses of witnesses, expert witnesses, transcripts, and interpreters, as may be required from time to time, shall be the sole responsibility of the City.

E. Payment Terms. Fees and costs are due from the City upon billings by the Prosecuting Attorney. A service charge shall accrue at the rate of 12% per annum (1% per month) and be added to any balance remaining unpaid sixty (60) days after the statement date.

V. CONTRACT PERIOD

This contract shall take effect on the ____ day of January 2013 and shall supersede all other contracts between the parties. The contract shall continue in effect until the 31st day of December 2015.

The Prosecuting Attorney shall submit a proposed contract for the calendar year 2016 on or before September 1, 2015, or by mutual date of the parties. It is anticipated that negotiations for renewal of this contract will take place prior to the expiration of 2015; provided, however, that if no negotiations shall occur, or if no agreement has been reached, this contract shall be renewed automatically for one calendar year, subject to the same terms and conditions set forth herein. The City also retains the right to solicit other proposals for the Prosecuting Attorney at any time. The City may terminate for cause at any time or without cause with 180 days' notice to the Prosecutor of the City's intent to terminate.

VI. INSURANCE AND HOLD HARMLESS

Liability Insurance. During the life of this contract, the Prosecuting Attorney shall maintain professional liability and malpractice insurance which shall provide coverage for anyone acting for or on behalf of the Prosecuting Attorney in the performance of this contract, unless the acting attorney carries their own policy consistent with the Prosecuting Attorney. Such insurance shall be obtained from any insurance company authorized to do business as such in the State of Washington and shall have policy limits of ONE MILLION DOLLARS (\$1,000,000.00) or more.

Acting Within Scope. So long as the Prosecuting Attorney is acting within the scope of this Contract and in accord with its ethical responsibilities under the provisions of the rules of Professional Conduct established by the Washington Supreme Court, the City shall provide for the defense of any claim brought against the Prosecuting Attorney while acting within the scope of this contract and said ethical responsibilities. Nothing herein shall be interpreted to require defense or indemnity for acts beyond the scope of this Contract, including, but not limited to tortious or wrongful acts committed by the Prosecuting Attorney.

Conduct of City. Nothing herein shall be interpreted to require the Prosecuting Attorney to indemnify the City, its officers, agents or employees from loss, claim or liability arising from negligent, wrongful or tortious conduct of the City, its officers, agents or employees.

Conduct of Prosecuting Attorney. Nothing herein shall be interpreted to require the City to indemnify the Prosecuting Attorney, its officers, agents or employees from loss, claim or liability arising from negligent, wrongful or tortious conduct of the Prosecuting Attorney, its officers, agents or employees.

VII. COLLECTION COSTS

In the event a party breaches this agreement, the prevailing party shall be entitled to recover reasonable attorney's fees and associated with enforcing their rights herein. The parties acknowledge that venue shall be in the Snohomish County Superior Court.

VIII. NOTICES

A. Notices. That if any notice is required or desired to be given under this agreement, such shall be deemed given if such is sent in writing by certified mail to his office, in the case of the Prosecuting Attorney, or to the Office of the Mayor, in the case of the City.

B. Entire Agreement. That this Agreement contains the entire understanding of the parties. It may be changed only by an agreement in writing signed by the party against whom enforcement of any waiver, change or modification, extension or discharge is sought.

IN WITNESS WHEREOF the parties have executed this Agreement on the _____ day of _____, 20____.

THE CITY OF LAKE STEVENS

Vern Little, Mayor

ZACHOR & THOMAS, Inc., P.S.

H. James Zachor, Jr., President

Content read, noted and approved:

Grant K. Weed, City Attorney



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LAKE STEVENS CITY COUNCIL
STAFF REPORT

Council Agenda Date: January 28, 2013

Subject: Design Review Board Nominations

Contact Person/Department: Rebecca Ableman, Planning and Community Development Director **Budget Impact:** None

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL: **Appoint identified nominees to the Design Review Board.**

SUMMARY: The Design Review Board was created by Ordinance No. 811 on March 24, 2010. The first Board was appointed on May 10, 2010. Due to the downturn in the economy, the Board has had only a few design reviews to date. Some member's terms have expired and changes have occurred on the Planning Commission requiring changes on the Board.

BACKGROUND: The following code section relates to the Design Review Board Members and selection.

14.16A.3470 Design Review Board.

(b) Appointments and Qualifications.

- (1) The Design Review Board shall consist of five individuals, of which at least three are City residents, from the following representatives selected by the City Council and shall include staff as a resource:
 - (i) At least one member and a designated alternate of the Lake Stevens Planning Commission;
 - (ii) At least one member and a designated alternate who work as urban design professionals experienced in the disciplines of architecture, landscape architecture, urban design, graphic design or similar disciplines and need not be residents of the City; and
 - (iii) At least one member and a designated alternate who is a city resident that has expressed an interest in urban design.
- (2) The term of each professional and resident position is three years and shall expire on December 31st in the final year of each term. When establishing the Design Review Board, one professional shall have a term of three years and the second, if required, shall have a term of two years to start. The Planning Commission representatives shall be voted on by the Planning Commission yearly

DISCUSSION: The Design Review Board was trained in 2010 and had their first review in July 2011 and second review in June 2012. Therefore, the two members whose terms expired in 2012 would like to continue on the Board for another three years. In addition, the Planning Commission representative is no longer on the Commission and the position requires filling.

The recommendation is to renew the three year terms for Matthew Kimball and Darek Olson. Both Matthew and Darek are residents and work as professionals in architecture. They have served as Chair and Vice Chair for the past few years.

Dean Franz's position as the Planning Commission representative on the Board was vacated. Sammie Thurber was the Planning Commission Alternate and would like to move up to Planning Commission Representative. Pamela Barnet would like to become the Planning Commission Alternate. Planning Commission is forwarding these recommended appointments

And finally, Tom Matlack will need to vacate his position as an Alternate if appointed to the Planning Commission. The vacated Alternate position will need to be filled.

APPLICABLE CITY POLICIES: LSMC 14.16A.340

BUDGET IMPACT: No budget impact

ATTACHMENT: Design Review Board & Staff Contact Information

DESIGN REVIEW BOARD – CITY COUNCIL CONFIRMATION 5/24/10

MEMBER/ALTERNATE	AFFILIATION	TERM
<u>Dean Franz</u> Engineer w/Perteet in Everett	Planning Commissioner & Resident	Beginning May 24, 2010 Ending December 31, 2011
<u>Sammie Thurber</u> – <i>Alternate Census Worker</i>	<i>Planning Commissioner & Resident</i>	<i>Beginning May 24, 2010 Ending December 31, 2011</i>
<u>Kelly DuByne</u> Owner, Distinctive Interior Designs in Lake Stevens	Urban Design Professional & Resident	Beginning May 24, 2010 Ending December 31, 2013
<u>Diana Hale</u> Owner, Tranquil Gardens Design (landscape design) in Lake Stevens	Urban Design Professional & Resident	Beginning May 24, 2010 Ending December 31, 2013
<u>Matthew Kimball</u> Architecture w/Dykeman Architects in Everett	Urban Design Professional & Resident	Beginning May 24, 2010 Ending December 31, 2012
<u>Darek Olson</u> Architecture, Interior Design & Visual Marketing w/Dykeman Architects in Everett	Urban Design Professional & Resident	Beginning May 24, 2010 Ending December 31, 2012
<u>Russell Dance</u> – <i>Alternate Development Construction Supervisor for Everett Parks & Recreation</i>	<i>Resident</i>	<i>Beginning May 24, 2010 Ending December 31, 2013</i>
<u>Thomas Matlack</u> – <i>Alternate Granite Falls High School Teacher</i>	<i>Resident</i>	<i>Beginning May 24, 2010 Ending December 31, 2013</i>



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Office of the Mayor

To: City Council
From: Mayor Little
Re: Planning Commission Appointment
Date: January 28, 2013

One position on the Planning Commission expired on December 31, 2012 and was vacated by Dean Franz. On January 15 Planning Commission Chair Linda Hoult and I interviewed three applicants. We are recommending Council's confirmation of Tom Matlack. Tom is a High School instructor, has lived in the community 25 years and has had a long time interest in urban planning/land use.

The Arts Commission currently has two vacancies that we are working to fill.

Thank you for your consideration.



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LAKE STEVENS CITY COUNCIL
STAFF REPORT

Council Agenda Date: January 28, 2013

Subject: Lake Stevens Municipal Code (LSMC) Title 10/Parks and Recreation

Contact Planning Director Becky Ableman **Budget Impact:** N/A
Person/Department: Interim Chief Dan Lorentzen

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL: Adopt first reading of Ordinance No. 881, recommended changes to LSMC Title 10.

SUMMARY/BACKGROUND:

Several Sections in Title 10 of the Lake Stevens Municipal Code required updating. These changes addressed state law requirements, revisions to state statutes related to vessel operation and address issues to improve the health, welfare and safety of the community.

City staff and the City Attorney's Office have been working on the revisions to Title 10 for several months and recommend the proposed revisions to the City Council for two readings and subsequent adoption.

The major changes to Title 10 consist of the following:

10.03.100 Firearms and Explosives: Per state law, parks are not a place where cities may prohibit the possession of firearms. Our current code prohibits firearms. Staff will be recommending the removal of the prohibition to carry firearms in city parks.

10:04.090 Adoption of Statutes by Reference: Many of the state statutes codes have been renumbered. This change will adopt the new code numbering system, the code as presently enacted and may be subsequently amended.

10.08.010 Accident Reports: Changes to this section will clarify accident reporting requirements and conform to state law reporting requirements.

10.16.070 Private Buoys and Markers: Private Buoys or Markers section updated to be consistent with the SMP update and State requirements by the Departments of Natural Resources and Fish and Wildlife. Although buoy/marker permits have been required by City code, they have not been issued. The amendments to this section of code should make it clear when a buoy/marker permit is required from the City. In addition, the Planning Department will issue the initial permit with the Police Department reviewing permits annually. New buoys require an authorization number from the Washington Department of Natural Resources, which is to be placed on the white buoy with blue stripe in accordance with the Uniform Waterway Marking System. A new fee for the initial buoy/marker permit will be brought to Council in February in an updated Fees Resolution.

10.20.145 Public Nuisance Noises Emanating from Watercraft: This is a new section proposed to address loud noises, such as music emanating from watercraft on the lake that are in operation or moored that disturbs the peace of persons in their homes, businesses, on their property and on the public waterway.

APPLICABLE CITY POLICIES: LSMC, Title 10, Parks and Recreation

BUDGET IMPACT: N/A

ATTACHMENTS:

▶ Exhibit A: Ordinance No. 881

**CITY OF LAKE STEVENS
LAKE STEVENS WASHINGTON**

ORDINANCE NO. 881

AN ORDINANCE OF THE CITY OF LAKE STEVENS AMENDING PORTIONS OF TITLE 10 ENTITLED “PARKS AND RECREATION” INCLUDING AMENDING SECTION 10.03.100 ENTITLED “FIREARMS AND EXPLOSIVES, AMENDING CHAPTER 10.04 ENTITLED “GENERAL PROVISIONS”, AMENDING CHAPTER 10.08 ENTITLED “ACCIDENTS AND ENFORCEMENT”, AMENDING CHAPTER 10.12 ENTITLED “RESTRICTED AREAS AND OBSTRUCTIONS”, AMENDING CHAPTER 10.16 ENTITLED “SWIMMING, DIVING AND WATERSKIING”, ADDING A NEW SECTION 10.20.145 ENTITLED “PUBLIC NUISANCE NOISES EMANATING FROM WATERCRAFT”, AND AMENDING SECTION 10.36.010 ENTITLED “SPECIAL REGULATIONS ESTABLISHED” PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City desires to update portions of Title 10 due to amendments in State regulation of recreational vehicles; and

WHEREAS, the City wanted to update some chapters to provide more specific descriptions of requirements; and

WHEREAS, the City is updating the Shoreline Master Program, which requires amendments to buoy regulations for consistency between the land use regulations and the SMP; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE STEVENS DO ORDAIN AS FOLLOWS:

Section 1. Lake Stevens Municipal Code (LSMC) Section 10.03.100 entitled “Firearms and Explosives” is hereby amended to read as follows:

10.03.100 Firearms and Explosives.

No person shall shoot, fire, or explode any fireworks, firecrackers, torpedoes, or explosives of any kind or throw any projectiles, ~~((or carry any firearm,))~~ or shoot or fire any firearm, air gun, bow and arrow, BB gun, or use any slingshot on any park properties except a law enforcement officer in the line of duty. The Director may issue a permit for the purpose of conducting a public fireworks display under RCW [70.77.260](#). The permit must meet the requirements of Section [9.64.030](#), Public Display of Fireworks.

Section 2. Lake Stevens Municipal Code (LSMC) Chapter 10.04 entitled “GENERAL PROVISIONS” is hereby amended to read as follows:

Chapter 10.04 GENERAL PROVISIONS

Sections:

- [10.04.010](#) Short title
- [10.04.020](#) Authorization - Waters defined
- [10.04.030](#) Application - Provisions supplemental
- [10.04.040](#) Definitions
- [10.04.050](#) Public employees - Compliance required
- [10.04.060](#) Application of water safety and watercraft code - Exemptions
- [10.04.070](#) Public health
- [10.04.080](#) Liability for damages
- [10.04.090](#) Adoption of Statutes by Reference

10.04.010 Short Title.

This title shall constitute the “Water Safety and Watercraft” code of the City and may be cited as such.

10.04.020 Authorization - Waters defined.

(a)~~(A)~~) The City, in the exercise of its police power, assumes control and jurisdiction over all waters within its limits.

(b)~~(B)~~) As authorized by RCW [35A.21.090](#), the powers and jurisdiction of the City with boundaries adjacent to or front on any lake, or other navigable waters, shall extend into and over such waters and over any tidelands intervening between any such boundary and any such waters to the middle of such lake or other waters in every manner and for every purpose that such powers and jurisdiction could be exercised if the waters were within the City limits.

10.04.030 Application - Provisions supplemental.

The provisions of this title shall be applicable to all vessels and watercraft operating in the waters of the City. The provisions of this title shall be construed to supplement United States laws and state laws and regulations when not expressly inconsistent therewith in the waters where such United States and state laws and regulations are applicable.

10.04.040 Definitions.

For the purpose of this title:

“Anchorage” means a designated position where vessels or watercraft may anchor or moor.

“Aquatic Event” means any organized water event of limited duration which is duly sanctioned at least seven (7) days in advance by duly constituted authority and which is conducted according to a prearranged schedule and in which general public interest is manifested.

“Authorized emergency vessel” means any authorized vessel or watercraft of the Lake Stevens Police Department, Snohomish County Sheriff’s Department, Lake Stevens Fire~~((Snohomish County Fire Protection District No. 8))~~, the United States government, and state and authorized patrol vessels, fire rescue boats or watercraft.

“Commission” means the State Parks and Recreation Commission.

“Cove” means that area of Lake Stevens set forth in the attached Exhibit A.

“Darkness” means that period between sunset and sunrise.

“Diver’s flag” means a red flag, five (5) units of measurement on the hoist by five (5) units of measurement on the fly with a white stripe of one (1) unit crossing the red diagonally, the flag to have a stiffener to make it stand out from a pole or mast. This flag shall only pertain to skindiving and SCUBA (Self-contained underwater breathing apparatus) diving and shall supplement any nationally recognized diver’s flag or marking. A unit of measurement shall not be less than two (2) inches.

“Idling Speed” means that speed of any motorboat while underway when its propulsion machinery is set at the machine’s lowest possible speed.

“Motor driven boats and vessels” means all boats and vessels which are self propelled.

“Muffler” or “muffler system” means a sound suppression device or system, including an underwater exhaust system, designed and installed to abate the sound of exhaust gases emitted from an internal combustion engine and that prevents excessive or unusual noise.

“Observer” means the individual riding in a vessel who is responsible for observing a water skier at all times.

“Obstruction” means any vessel or watercraft or any matter which may in any way blockade, interfere with or endanger any vessel or watercraft or impede navigation.

“Oil” means any oil or liquid, whether of animal, vegetable, mineral or chemical origin, or a mixture, compound or distillation thereof.

“Operate” means to steer, direct, or otherwise have physical control of a vessel that is underway.

“Operator” means an individual who steers, directs, or otherwise has physical control of a vessel that is underway or exercises actual authority to control the person at the helm.

“Owner” means a person who has a lawful right to possession of a vessel by purchase, exchange, gift, lease, inheritance, or legal action whether or not the vessel is subject to a security interest.

“Personal flotation device” means a buoyancy device, life preserver, buoyant vest, ring buoy, or buoy cushion that is designed to float a person in the water and that is approved by the commission.

“Personal watercraft” means a vessel of less than sixteen feet that uses a motor powering a water jet pump, as its primary source of motive power and that is designed to be operated by a person sitting, standing, or kneeling on, or being towed behind the vessel, rather than in the conventional manner of sitting or standing inside the vessel.

“Pier” means any pier, wharf, dock, flat, grid-iron or other structure which promotes the convenient loading or unloading or other discharge from vessels or watercraft, or the repair thereof.

“Reckless” or “recklessly” means acting carelessly and heedlessly in a willful and wanton disregard of the rights, safety, or property of another.

“Restricted area” means an area that is closed to all water traffic or where water traffic is regulated for the health, safety and welfare of the public.

“Towboat” means any vessel or watercraft engaged in towing or pushing another vessel or watercraft.

“Underway” means that a vessel is not at anchor, or made fast to the shore, or aground.

“Vessel” includes every description of watercraft on the water, other than a seaplane, used or capable of being used as a means of transportation on the water. However, it does not include inner tubes, air mattresses, and small rafts or flotation devices or toys customarily used by swimmers. (Ord. 453, 1994)

“Wake” means more than a six (6) inch swell in the water created by the movement of any watercraft. (Ord. 543, 1997)

“Water Skiing” means the physical act of being towed behind a vessel on, but not limited to, any skis, aquaplane, kneeboard, tube, or any other similar device.

10.04.050 Public employees - Compliance required.

The provisions of this title shall apply to the operator of any vessel or watercraft owned by or used in the service of the United States government or of this state, or of any political subdivision thereof.

10.04.060 Application of Water Safety and Watercraft Code - Exemptions.

The provisions of this title shall be applicable to the operation of any and all vessels or watercraft in the waters of the City, except that they shall not apply to any authorized emergency vessel or watercraft actually responding to an emergency call or in immediate pursuit of an actual or suspected violator of the law; provided, that the provisions of this section shall not relieve the operator of an authorized emergency vessel or watercraft of the duty to operate with due regard for the safety of all persons using the waters of the City.

10.04.070 Public health.

All watercraft and vessels entering the waters of the City shall comply with the applicable public health laws and regulations of the United States, the state, and its political subdivisions.

10.04.080 Liability for damages.

Nothing in this title shall be construed so as to release any person owning or controlling any vessel, watercraft, pier, obstruction or other structure from any liability for damages. The safeguards to life and property required in this title

shall not be construed as relieving any person from installing and maintaining any other safeguards which may be required by law.

10.04.090 Adoption of Statutes by Reference.

The City of Lake Stevens hereby adopts and incorporates by references the following sections of the Revised Code of Washington as presently enacted and as may be subsequently amended:

- | | |
|---|---|
| RCW <u>88.((08.023))02.550</u> | <u>Registration and display of registration number and decal required – Penalty – Exemptions</u> ((Vessel seal display)) |
| RCW <u>88.((08.030))02.790</u> | <u>Vessel dealer display decals – Use</u> ((Exemption from vessel registration)) |
| RCW
((88.12.015)) <u>79A.60.020</u> | Violations of chapter punishable as misdemeanor--
Circumstances--Violations designated as civil
infractions |
| RCW
((88.12.020)) <u>79A.60.030</u> | Operation of vessel in a negligent manner--Penalty |
| RCW
((88.12.025)) <u>79A.60.040</u> | Operation of vessel in a reckless manner--Penalty |
| RCW
((88.12.035)) <u>79A.60.080</u> | Failure to stop for law enforcement officer |
| RCW
((88.12.055)) <u>79A.60.100</u> | Enforcement--Chapter to supplement federal law |
| RCW
((88.12.065)) <u>79A.60.110</u> | Equipment standards--Rules--Penalty |
| RCW
((88.12.075)) <u>79A.60.120</u> | Tampering with vessel lights or signals--Exhibiting
false lights or signal--Penalty |
| RCW
((88.12.085)) <u>79A.60.130</u> | Muffler or underwater exhaust system required--
Exemptions--Enforcement--Penalty |
| RCW
((88.12.095)) <u>79A.60.140</u> | Personal flotation devices--Inspection and approval--
-Rules |
| RCW
((88.12.105)) <u>79A.60.150</u> | Failure of vessel to contain required equipment--
Liability of operation or owner--Penalty |
| RCW | Personal flotation devices required--Penalty |

<u>((88.12.115))</u> 79A.60.160	
RCW	Water skiing safety--Requirements
<u>((88.12.125))</u> 79A.60.170	
RCW	Loading or powering vessel beyond safe operating ability--Penalties
<u>((88.12.135))</u> 79A.60.180	
RCW	Operation of personal watercraft--Prohibited activities--Penalties
<u>((88.12.145))</u> 79A.60.190	
RCW	Duty of operator involved in collision, accident, or other casualty--Immunity from liability of persons rendering assistance--Penalty
<u>((88.12.155))</u> 79A.60.200	
RCW	Casualty and accident reports--Confidentiality--Use as evidence
<u>((88.12.165))</u> 79A.60.210	
RCW	Boating accident reports by local government agencies--Investigation--Report of coroner
<u>((88.12.175))</u> 79A.60.220	
RCW	Vessels adrift--Owner to be notified
<u>((88.12.185))</u> 79A.60.230	
RCW	Uniform waterway marking system
<u>((88.12.285))</u> 79A.60.500	

Section 3. Lake Stevens Municipal Code (LSMC) Chapter 10.08 entitled “ACCIDENTS AND ENFOCEMENT” is hereby amended to read as follows:

Chapter 10.08

ACCIDENTS AND ENFORCEMENT

Sections:

- 10.08.010 Accident - Reports
- 10.08.020 ~~((Reports confidential – Inadmissible as evidence))~~ Repealed
- 10.08.030 Filing false information and concealment of pertinent facts
- 10.08.040 Duties of Lake Stevens police department
- 10.08.050 Aiding and abetting violation
- 10.08.060 Violation - Penalty

10.08.010 Accident - Reports.

(a)((A-)) Initial Accident Report. In the event of any boating accident in City waters which results in the death of any person, the disappearance of any person, ~~((or))~~ injury to any person which requires medical treatment beyond first aid, damage to vessels and

other property totaling two thousand dollars (\$2,000.00) or more, or if the vessel is a complete loss, the master, owner or operator of any involved vessel shall immediately report the same to the Lake Stevens P((ø))olice D((ð))epartment.

(b)((B-)) Written Accident Report. In addition to subsection A of this section, ((above,)) the master, owner or operator of any involved vessel shall file a written Washington State Boating Accident Report within forty-eight (48) hours of any accident except for an accident involving death of a person, personal injury requiring medical attention beyond first aid, or disappearance of a person under circumstances that indicate death or injury from a vessel then within twenty-four (24) hours of the accident. (~~(, or property damage in excess of two hundred dollars (\$200.00))~~)

(c) Written Accident Report for All Other Accidents. For accidents not meeting the requirements in subsection B above, the master, owner or operator of any involved vessel shall file a written Washington State Boating Accident Report with the Lake Stevens Police Department within ten (10) days of the occurrence or death for all other boating accidents.

10.08.020 Repealed. (~~Reports confidential—Inadmissible as evidence.~~)

~~All required accident reports, supplemental reports and copies thereof shall be without prejudice to the individual so reporting and shall be for the confidential use of the Lake Stevens Police Department, City Attorney or other peace and enforcement officer as provided in this title, except that any such officer may disclose the identity of a person reported as involved in an accident when such identity is not otherwise known or when such person denies his presence at such accident. No State Boating Accident Report form or copy thereof shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that any officer above named receiving accident reports shall furnish, upon demand of any person who has, or who claims to have, made such a report, or, upon demand of any court, a certificate showing that a specified accident report has or has not been made to the Lake Stevens police department, solely to prove a compliance or a failure to comply with the requirement that such a report be made in the manner required by law.)~~

10.08.030 Filing false information and concealment of pertinent facts.

It is a violation of this title for any master, owner, operator or other occupants of any vessel or watercraft involved in a reportable accident under the provisions of this title or involved in any violation of this title to willfully and knowingly file false information with and/or conceal pertinent facts to the accident or violation from the persons duly authorized to investigate the accident or violation. This section shall constitute a

separate violation and shall not preclude prosecution for the original violation or accident.

10.08.040 Duties of Lake Stevens Police Department.

The duties of the Lake Stevens police department and such agencies or persons the City may contract with to enforce the provisions of this title shall be as follows:

(a)~~((A-))~~ To enforce the ordinances and regulations of the City upon the waters adjacent thereto;

(b)~~((B-))~~ To maintain patrols in the waters of the City for the protection of life and property including but not limited to the removal and disposition of drifting debris and nuisances from the waters of the City;

(c)~~((C-))~~ To investigate and report upon accidents in City waters;

(d)~~((D-))~~ To perform all necessary functions in connection with search and rescue in City waters;

(e)~~((E-))~~ To cooperate with the authorities of the United States, the state and its political subdivisions in the enforcement of the laws and regulations of the United States, the state and its political subdivisions;

(f)~~((F-))~~ To designate, indicate the location of, and to patrol anchorage locations for vessels within areas set forth by the ordinances of the City.

10.08.050 Aiding and abetting violation.

It is unlawful to counsel, aid or abet the violation of, or failure to comply with, any of the provisions of this title.

10.08.060 Violation - Penalty.

Any person who violates or fails to comply with any provisions of this title shall be guilty of a misdemeanor unless otherwise stated herein.

Section 4. Lake Stevens Municipal Code (LSMC) Chapter 10.12 entitled “RESTRICTED AREAS AND OBSTRUCTIONS” is hereby amended to read as follows:

**Chapter 10.12
RESTRICTED AREAS AND OBSTRUCTIONS**

Sections:

10.12.010 Restricted areas and markings

10.12.020 Obstructions - Moving of same

10.12.010 Restricted areas and markings.

(a)~~(A-)~~ In the interests of safe navigation, life safety and the protection of property, the Chief of the Lake Stevens Police Department shall designate vessel restricted areas up to one hundred (100) feet away from any public swimming area. Provided, that this section shall not apply to patrol or rescue craft or in the case of an emergency.

(b)~~(B-)~~ The Chief of Police shall be authorized to install buoys, designed in compliance with the State Uniform Waterway Marking System, in such locations on the waters of the City as the City Council may designate from time to time. Such buoys shall establish the boundaries of speed control area, swimmers only, or swimmer restricted areas; vessel-type restricted area; or other water and restriction zones within the waters of the City. Such boundaries shall become effective when the buoys, as designated, are installed.

10.12.020 Obstructions - Moving of same.

(a)~~(A-)~~ No master or person having charge of any vessel, watercraft or obstruction shall anchor the same fast to any buoy, pier or other structure owned by or under the authority and control of the City without first obtaining written permission ~~((therefor))~~ from the Police Chief.

(b)~~(B-)~~ The Chief of Police or any duly authorized officer of the department shall have the power to cause the removal of any:

- (1) Vessel, watercraft or obstruction made fast to any buoy, pier or other structure owned by or under the authority and control of the City;
- (2) Vessel, watercraft or obstruction lying at any pier in City waters, which is obstructing any slip or other vessel or watercraft.

(c)~~(C-)~~ No person shall fail to remove or refuse to remove any vessel, watercraft or obstruction after being requested to do so by any police officer.

Section 5. Lake Stevens Municipal Code (LSMC) Chapter 10.16 entitled “SWIMMING, DIVING AND WATERSKIING” is hereby amended to read as follows:

**Chapter 10.16
SWIMMING, DIVING AND WATERSKIING**

Sections:

10.16.010 Water skier speed and operation regulations

10.16.015 Towing skiers

10.16.020 Boat direction

- [10.16.030](#) Restrictions on hours of operation of vessels
- [10.16.040](#) Water users - Swimmers
- [10.16.050](#) Water users - Divers
- [10.16.060](#) ~~((Swimming and diving prohibited areas))~~Repealed
- [10.16.070](#) Private buoys or marker
- [10.16.080](#) Penalties

10.16.010 Water skier speed and operation regulations.

Due to the speed required for efficient planning action and the large area of the ~~((L))~~lake ~~((Stevens cove area))~~required for maneuvering of vessels and person being towed and the substantial interference with other water users, or danger of impact and wake damage presented to other water users and health hazards, the operation of vessels for towing water skiers and water-skiing is allowed only during daylight hours. The City Council may enact additional restrictions which may restrict days of week, hours and manner of operation in which such activity is permitted.

Unless conditions of the water, traffic congestion, weather, ~~((size and configuration of the Lake cove area,))~~freedom from obstruction or view, or other circumstances demand greater distance, it shall be unlawful for any persons to water-ski:

~~(a)~~((A-)) Within one hundred feet of any swimmer, bather, skin and/or scuba diver's flag or artificially illuminated marker buoy, other vessel except the vessel towing said water skier, floating objects except water-ski jumps and water-ski slalom marker buoys, or other water skiers except those water skiers being towed by the same vessel;

~~(b)~~((B-)) ~~((In the water area of the Lake cove area b))~~Between the shoreline and a safety buoy and/or safety buoy line except that for the purpose of launching and returning and only for such purpose any water skier may approach within one hundred feet of any shoreline, float or wharf ~~((or in the water area of the Lake cove area between the shoreline and a safety buoy and/or safety buoy line))~~, provided:

~~(1)~~((-)) While moving outward from any shoreline, float or wharf, said water skier shall leave the shoreline at an angle of not less than forty-five (45) degrees nor more than sixty (60) degrees with the shoreline on the right-hand side of the water skier,

~~(2)~~((-)) While moving inward toward the shoreline, said water skier shall approach the shoreline at an angle of not less than forty-five (45) degrees nor more than sixty (60) degrees with the shoreline on the right-hand side of the water skier,

~~(3)((-))~~ That no launching skiers or returning skiers shall be allowed from a dock or shoreline without the owner's permission,

~~(4)((-))~~ That no launching skiers or returning skiers shall be allowed within 100 feet of a designated swimming area or swimmer or wader.

10.16.015 Towing skiers.

If towing a person on water skis or other devices, the vessel must be rated to carry at least the number of persons on board plus those being towed. You may not exceed the vessel's safe carrying capacity.

10.16.020 Boat direction.

((It shall be unlawful to operate any motor driven vessel or personal watercraft on the Lake cove area))No person may water ski or tow a water skier except in a counter clockwise direction.

10.16.030 Restrictions on hours of operation of vessels.

(a) Except as allowed in subsection (b), it shall be unlawful to operate any motor driven vessel or personal watercraft in excess of eight (8) miles per hour, or such speed as to create a wake, whichever is less, within the cove area of Lake Stevens after one o'clock p.m. local time.

(b) The following shall be exempt from the prohibitions of Subsection (a):

(1) Vessels used in conjunction with a special event for which a special event permit has been issued and which specifically allows faster speeds.

(2) Emergency response vessels.

10.16.040 Water users - Swimmers.

(a) No person shall swim or float in a swimming prohibited area, provided that any water skier who falls or otherwise ceases to be towed shall be accompanied by the towing vessel as soon as is reasonably possible after the fall or cessation of towing.

(b) Where water skiing is permitted, the swimming-restricted area is any area more than one hundred (100) feet out into the Lake from any shoreline when the operation of such water-skiing is authorized.

(c) Where waterskiing is permitted, swimming is permitted at distances greater than 100 feet from the shoreline if the swimmer is accompanied by and within 50 feet of said vessel and a skier-down flag is displayed on the vessel.

10.16.050 Water users - Divers.

All persons engaging in diving shall mark the water areas where such operations are being conducted. Where such operations are being conducted during daylight hours, the water areas shall be marked with one or more diver's flags. Where such operations are conducted during the hours of darkness, the water area shall be marked with one or more artificially illuminated marker buoys of sufficient size and illumination to be visible at a distance of not less than one hundred (100) yards. No person shall display such markers except during the time and in the water areas where diving operations are actually being conducted.

10.16.060 ~~Repealed. ((Swimming and diving prohibited areas.~~

~~No person shall swim or dive in any area marked as an entrance to a water-ski area; provided, this prohibition shall not apply to a water skier unable to ski who is seeking safety.))~~

10.16.070 Private buoys or markers.

(a) It shall be unlawful for any person or non-governmental agency to place, maintain or allow any buoy or marker in the ~~((L))~~lake cove area which does not meet the requirement of the Uniform ~~((State-))~~Waterway ~~((M))~~Marking System (Chapter 352-66 WAC) ~~((unless-))~~and said buoy or marker is approved both under a current and valid Aquatic Lands Use Permit issued by the Department of Natural Resources with authorization number to place on buoy; valid Hydraulic Permit Approval (HPA), or exemption from an HPA, issued by the Department of Fish and Wildlife after submittal of a Joint Aquatic Resource Permit Application (JARPA); and a Private Buoy or Marker Permit~~((an annual permit))~~ issued by the City of Lake Stevens. The City permit shall be renewed annually.

(b) Water skiing activities which require the placement of buoys, jumps or floats will only be allowed when such fixtures are placed and maintained in accordance both with a valid and current Aquatic Lands Use Permit or lease where such permits or leases are required by the Washington State Department of Natural Resources; valid and current HPA, or exemption, issued by the Department of Fish and Wildlife; and a Private Buoy or Marker Permit ~~((permit))~~ issued by the City of Lake Stevens. The City of Lake Stevens shall have no responsibility to establish or maintain such buoys, jumps or floats for water skiing activities.

(c) Up to two private mooring buoys placed within the envelope of a new or existing permitted dock and consistent with the Shoreline Master Program, Uniform Waterway Marking System (Chapter 352-66 WAC) and RCW 79.105.430 for mooring buoys on state-owned aquatic lands shall be considered an accessory use of the dock and do not

require a separate Private Buoy or Marker Permit, nor a Department of Natural Resources license or lease agreement. However, the Department of Fish and Wildlife shall be contacted by the dock owner to determine if an HPA is required for placement and use of the mooring buoys.

(d) Residential property owners on Lake Stevens with no dock may place a recreational mooring buoy as near to the shore of residence as practical in at least 7 feet of water and at least ten feet from the property lines extended into the lake consistent with the Shoreline Master Program, Uniform Waterway Marking System (Chapter 352-66 WAC) and RCW 79.105.430. A second buoy to help secure moorage to the first buoy is allowed. A separate Private Buoy or Marker Permit is required from the City. The buoys are also required to be authorized by the Washington State Department of Natural Resources and the authorization number placed on the buoy.

(e) Use of temporary buoys, markers, jumps or floats for activities associated with a special event requiring a Special Event Permit from the City, do not require a separate Private Buoy or Marker Permit. However, the Event Sponsor shall contact the Department of Fish and Wildlife early in the review process to determine if an HPA is required for placement and use of the temporary facilities.

(f) The Planning Director in consultation with the Chief of Police is hereby authorized to issue permits for private buoys or markers. The permit fee and annual fee((s)) for such buoys or markers shall be set by the City Council by resolution. In deciding whether or not to issue such a permit the Planning Director and Chief of Police shall consider the purpose and the location of the proposed buoys or markers, the proximity of the proposed buoys or markers to the shoreline, adjacent property, other buoys and markers, traffic congestion in the cove, hazards to navigation, regulations in the Shoreline Master Program, and any other issue bearing on public safety and health. A denial of a permit application shall be done in writing setting forth the factors which the Planning Director and Chief of Police considered and the reasons for the denial.

(g) In the event that the Planning Director and Chief of Police deny((ies)) an application or refuse((s)) to renew a prior application, the proponent can appeal the decision to the City Council by filing a Notice of Appeal with the City Clerk within fifteen (15) days of the written decision denying the permit. In considering the appeal the City Council shall consider whether the Planning Director or Chief of Police abused his or her discretion in denying the permit application.

(h) When found to be in violation of this chapter, no person shall fail to remove or refuse to remove any obstruction or buoy after being requested to do so by any police officer or code enforcement officer.

10.16.080 Penalties.

A violation of any section of this Chapter shall be an infraction punishable by a fine of up to \$250.00 per violation. Provided, however, that any person who commits two infractions of this Chapter within a one-year period shall upon the commission of the third identical offense within the one-year period be guilty of a misdemeanor and shall be prosecuted for such.

Section 6. Lake Stevens Municipal Code (LSMC) Chapter 10.20 entitled “OPERATION OF WATERCRAFT” is hereby amended by adding a new section 10.20.145 entitled “Public Nuisance Noises Emanating from Watercraft” to read as follows:

10.20.145 Public Nuisance Noises Emanating from Watercraft.

(a) Watercraft noise. The use or operation of any audio system such as radio, tape player, disc player, portable media players, docking stations, or any other electronic sound reproduction device located on or within a watercraft being operated or moored on any public waterways or place accessible to the public, in such manner as to disturb the peace, and reasonable comfort and repose of persons, in their homes, businesses, owners or possessors of real property on the water way or public use area of the waterway is prohibited.

(b) The operation of such audio system, such as radio, tape player, disc player, portable media player, docking stations or any other electronic sound reproduction device from a watercraft in such a manner to be audible to those outside the watercraft at a distance of 100 feet or more from the source, as best that point can be estimated without the use of any distance-measuring device, regardless of the time of day, shall be prima facie evidence of a violation of this section.

(c) And provided further that vessels or watercraft participating in a City sponsored or permitted event in which watercraft participation is a planned element of the event shall not be in violation of this section.

Section 7. Lake Stevens Municipal Code (LSMC) Section 10.36.010 entitled “Special regulations established” is hereby amended to read as follows:

10.36.010 Special regulations establishment.

Special regulations for permitting a specific water use activity, establishment of course or limitation of hours of operation may be enacted by presentation to the City Council of a plan for implementation of such regulations including establishment and maintenance

of floats, buoys, safety patrols, and other measure to permit the activity without undue restriction on other permitted water uses and without undue demand on the comfort, repose and safety of other water and shoreline users. Water use activities or facilities may also be regulated by the Shoreline Master Program.

Section 8. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 9. Effective Date. This ordinance shall be in full force and effective five (5) days from and after its passage and approval and publication as required by law.

PASSED by the City Council and APPROVED by the Mayor of the City of Lake Stevens on this __ day of _____, 2013.

Vern Little, Mayor

ATTEST/AUTHENTICATION:

Norma J. Scott, City Clerk.

APPROVED TO FORM

Grant Weed, City Attorney

Passed by Council:

Published:

Effective Date:



LAKE STEVENS CITY COUNCIL
STAFF REPORT

Council Agenda Date: 28 January 2013

Subject: Police Evidence Facility Improvements

Contact	Mick Monken	Budget Impact:	\$12,000
Person/Department:	<u>Public Works</u>		<u>Not to exceed</u>

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL: Authorize capital expenditure to perform facility improvements to the Police Evidence Facility.

SUMMARY/BACKGROUND: The Police Department building for evidence storage is in need of modification to improve operations. The building requires improvements to protect the evidence and to expand the usage of the facility for storage for different levels of secured storage and material types. In addition, improvements are needed for staff safety that includes: smoke alarms, emergency lighting, and an emergency escape from a enclosed upstairs room. Other improvements will include outside lighting and a small portable emergency generator to operate refrigeration and freezer units storing evidence.

With the exception of two exterior steel security doors, the Public Works staff will perform the remaining improvements. Exhibit A shows a cost estimate for the proposed improvements.

If this action is authorized by the Council, a budget adjustment will be brought before the Council in February. The full funding for this work would be allocated from the Drug Seizer account.

APPLICABLE CITY POLICIES: NA

BUDGET IMPACT: Not to exceed \$12,000.

ATTACHMENTS:

- ▶ Exhibit A: Cost Estimate

EXHIBIT A

PD Evidence Facility Upgrade

Cost Estimate

Note: Labor to be provided by PW Crew

Revision:

18-Dec-12

By: Monken

Item	Description	Qty	Unit	Unit \$	Total	Notes	
1	Install emergency access	1	EA	600 \$	600	Installed by contractor	
2	Ceiling vent fan with thru wall exhaust	2	EA	250 \$	500	150 CFM with wiring to light system	
3	Ceiling vent fan with vent into hose stack	2	EA	250 \$	500	50 CFM with wiring to all time	
4	Install 6" wall vent pipes with screen	3	EA	50 \$	150	Square pipe with plate - custom	
5	Frame in new 30 inch wood door	3	EA	300 \$	900	Interior door, includes hardware	
6	Extend stairway out to 3 additional steps	1	LS	200 \$	200	Includes hand rail replacement	
7	2x4x12 divider wall with OSB	792	SF	3 \$	2,376	Includes connections and top 12 inch screening	
8	Install evidence pass through cabinets	1	LS	100 \$	100	Heavy framing and tie to walls	
9	Install 8x8 steel roll up door	1	LS	1,200 \$	1,200	Includes framing & look set	
10	Install exterior steel door with lock assembly	1	EA	700 \$	700	Installed by contractor	
11	Install emergency generator pig tail receptacle	1	LS	60 \$	60	Exterior box lid cover	
	Install exterior LED lights	2	EA	170 \$	340	Includes new mount box and wire	
	Smoke detectors	5		60 \$	300	Includes electrical wiring	
	Emergency LED lights	7		60 \$	420	Includes electrical wiring	
	Emergency Portable Generator (4,000 w)	1	EA	\$	500	Assume Refrig & Freezer (2,000w total need - run @ 50% load	
Subtotal				\$	8,846		
WSST (0.086)					\$	761	
Contingency					\$	1,769	Includes shipping and handling
TOTAL				\$	11,376		



LAKE STEVENS CITY COUNCIL
STAFF REPORT

Council Agenda Date: 28 January 2013

Subject: Lake Stevens Phosphorus Management Plan

Contact	Mick Monken	Budget Impact:	\$100,000
Person/Department:	<u>Public Works</u>		<u>Annually</u>

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL: Approval of Phosphorus Management Plan with Recommendations.

SUMMARY/BACKGROUND: This item was presented for discussion before the Council at the 10th December 2012 and the 14th January 2013 meeting. The discussion point of this item was how the Phosphorus loading condition of Lake Stevens will be dealt with into the future. Staff had presented a Draft Phosphorus Management Plan (Plan) that out lined the history and provided recommendations. The recommendations with a brief on each as discussed with the Council at the 14th January meeting are:

1. Control internal loading –Small, annual alum treatments to remove phosphorus from the water column and over time reduce internal loading from the sediments.
2. Reduce the external loading – education, regulations (code and standards), and annual monitoring in lake.
3. Phase out aerator – aerator will remain in the lake at least through 2018. Following this date a determination of it removal or reactivation will be made. City will perform minimum maintenance to keep the aerator system floating until a decision is made.
4. Monitor and review – determine success of actions and revise as needed

The recommendations with briefs are incorporated into the Plan. In addition: 1) two graphs have been added to provide historical (Graph B) and current (Graph C) information on sources of Phosphorus loading to Lake Stevens; 2) in the “Reduce External Loading” table, item X 17 has been changed to an action taken (highlight in yellow) as the State has passed a law that bans use and sale of phosphorus in lawn fertilizers except for new lawns or where a soil test shows the need for phosphorus; and 3) Exhibit B cost projection has been updated to separate the existing operating and capital forecast budget/forecast.

Staff is seeking approval from the Council on the attached Plan. Once approved by the City Council, staff will bring forward a budget amendment to reallocate the aerator operating and replacement funds for the Phosphorus treatment implementation. Concurrently, staff will coordinate with Snohomish County on the amendment to the existing Aerator ILA to include the Alum treatment. (As this action has received the support of the County staff, it is assumed that the ILA amendment will be approved by the County Council. In the event that it isn’t approved by the County, staff will come before the City Council for direction.) Once an ILA amendment has been approved and the budget amended, the project can go to ad and implemented this spring/summer. Approval of the project contract will be brought before the Council for approval.

In regards to the education portion, staff is working with Snohomish County, the Conservation Corps, and DOE to develop a program. This will be brought before the Council as a future item.

APPLICABLE CITY POLICIES:

BUDGET IMPACT: \$100,000. Funding will include resources budgeted for the maintenance and operation of the aerator. Additional funding is anticipated from the reallocation of currently restricted aerator capital funds by amendment of the Aerator ILA to include Alum as an allowable use of the funds. An amendment to the Aerator ILA and a budget amendment will be brought before the Council for approval prior to implementation. The current Aerator capital contribution budget is \$40,000, and the aerator operating budget is \$66,000, of which approximately \$18,000 is committed for expenditures related to the Phosphorus Report. The current balance in the Aerator Capital Equipment Replacement fund is \$95,000.

ATTACHMENTS:

- ▶ Exhibit A: DRAFT Phosphorus Management Plan
- ▶ Exhibit B: Draft Financial Plan

EXHIBIT A



DRAFT

PHOSPHORUS MANAGEMENT PLAN 2013



(Algae bloom June 2012)

Revision: 23 January 2013

Plan Purpose

This phosphorus management plan defines: the existing condition of the lake and watershed; options to address these conditions; and a recommendation to provide for short and long term solutions to the excessive phosphorus loading of Lake Stevens. The plan services as a guide document and will be used for funding consideration.

Problem Statement

Lake Stevens continues to have an influx of internal phosphorus loading from the lake's sediment and external phosphorus loading from the surrounding watershed¹. While phosphorus is important to the health of the lake, high levels of phosphorus can result in water quality deterioration and unwanted algae blooms. The aerator has provided an acceptable level of phosphorus reduction resulting from internal loading from the lake's sediment since 1994. However, the long-term viability of aeration as the single treatment method for excessive phosphorus is unsustainable because there is not enough iron in the water and the sediments to bind all of the phosphorus in the lake. In addition, the aerator is very costly to operate and maintain and it is approaching the end of its life-span. With or without the use of the aerator, lake conditions will deteriorate unless a suitable in-lake treatment plan is implemented to help reduce phosphorus levels (TetraTech, 2009). The photo below shows a blue-green algae bloom that occurred in the spring of 2012 when oxygen levels were still high within the lake. This is an indicator of high phosphorus levels in the water column.



Figure 1 - June 2012 Algae bloom condition – indication of high phosphorus suspended in the water.

¹ “Loading” refers to input of a nutrient per unit of time.

Background

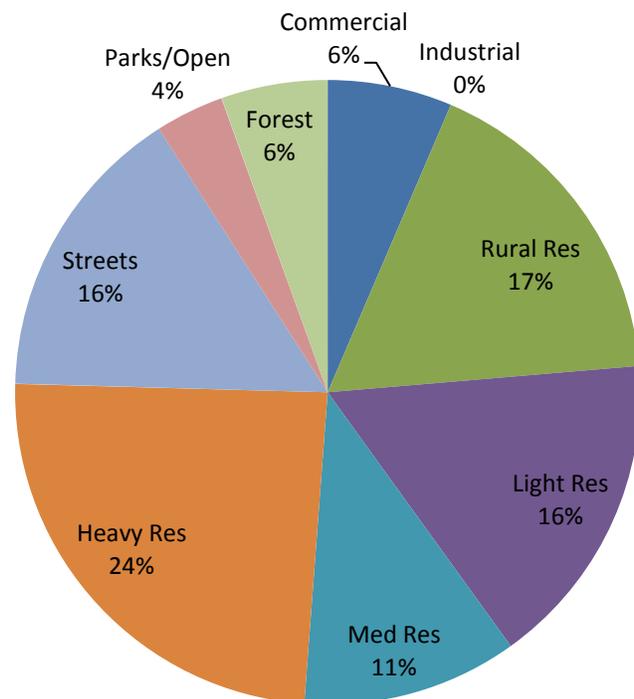
Lake Stevens is the largest natural lake in Snohomish County. The lake covers 1013 acres, and has an average depth of 62 feet (19 meters) and a maximum depth of 150 feet (46 meters). Lake Stevens is fed by Stevens, Lundeen, Kokanee, and Stitch creeks, which comprise the major sources of water feeding the lake. The Lake Stevens watershed area covers 4,536 acres including the lake's surface. This 4:1 watershed to lake ratio indicates a relatively small drainage basin for a lake of this size. The outfall of the lake drains into Catherine Creek and then to the Pilchuck River.

From the 1950's and into the 1980's, Lake Stevens experienced frequent algal blooms, a decline in water clarity, and poor water quality due to increases in phosphorus loading. Initially, external loading was due to forestry and agricultural practices, and in later years, nutrients came from housing and commercial developments (Snohomish County 2008). Internal loading was occurring simultaneously from a natural chemical cycling process involving phosphorus and iron. In the presence of oxygen, phosphorus binds with iron and remains in the sediment. During the warmer summer months, the sediment in the lake doesn't receive enough oxygen and the chemical reaction which originally immobilized phosphorus reverses, releasing phosphorus from its bond with iron. In 1994 an aerator system was installed to maintain the required dissolved oxygen levels in the bottom waters of the lake (the hypolimnion) to sustain iron and phosphorus bonding during months when oxygen levels at the lake bottom dropped.

Phosphorus is essential for plant and animal life in an aquatic ecosystem, however an excess of this nutrient acts as a fertilizer and stimulates the growth of algae. This increase dramatically accelerates the rapid growth and death of blue-green algae that clouds water, reduces dissolved oxygen, and can poison fish and wildlife – causing a threat to the health and overall quality of the lake and its surrounding environment (Ecology, 2011).

Phosphorus Sources

Phosphorus is an element that is found in rocks, soils, and most life forms. It is a natural occurrence and important element to the life cycle of most organic life. As with most lakes, the phosphorus in Lake Stevens comes from internal and external loading sources. Internal loading comes from phosphorus that is already in the lake's sediment. In a review performed by Tetra Tech in 2012, it is estimated the average internal phosphorus load is 432 kg/year (952 lb/year).



Graph A – Existing external P loading/land use shown

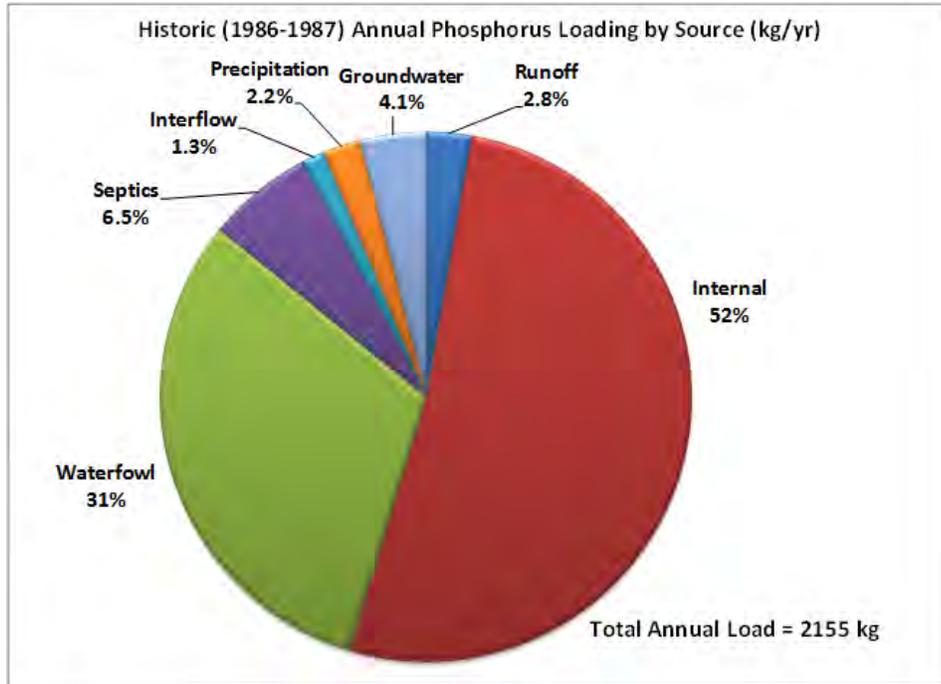
As described above, phosphorus that has settled over time in the lake bottom can be released back into the lake water when dissolved oxygen levels are low, causing the iron-phosphorus bonds to break apart. This process is also known as phosphorus cycling. Phosphorus can also be released in both deep and shallow water when organic matter breaks down. This can occur even when oxygen levels are high.

Although a small amount of external loading may come from natural sources such as the erosion of rocks and soils (where phosphorus originates) and plant and animal decay, the majority of external phosphorus is imported into the lake from other sources. The imported sources comes from such things as fertilizers, runoff from roofs, driveways, roads and other hard surfaces, soil erosion from land clearing, dirt collected on vehicles, leaking septic/sewer waste, water fowl and from pets and livestock. While the exact amount of external phosphorus loading is not known, an estimate was prepared by TetraTech in 2012 using current land uses and published loading coefficients for land-use types in King County. The results are shown in Graph A and Table 1.

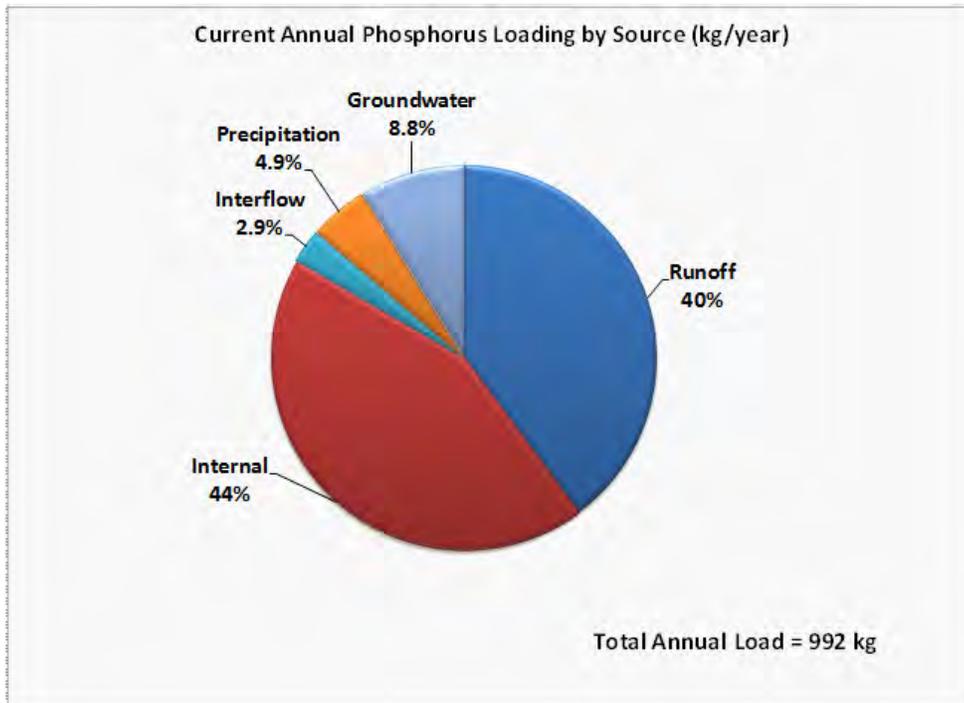
Table 1. Estimated Existing External TP Loads per Land-use Area (Tetra Tech 2012)

Land-use Categories	Existing Phosphorus Loads kg/yr (lbs/yr)
Commercial (Office/Commercial/Business)	25.2 (56)
Industrial	0.0 (0)
Light Rural Residential (<1.0 units/acre)	68.0 (150)
Light Urban Residential (1.0 to 4.0 units/acre)	65.0 (143)
Medium Urban Residential (4.0 to 6.0 units/acre)	43.8 (97)
Heavy Urban Residential (>6.0 units/acre)	95.8 (211)
Streets/ROW	61.2 (135)
Park/Open Space	14.2 (31)
Forested	21.8 (48)
Open Water	0.0 (0)
TOTAL PHOSPHORUS LOAD	395.1 (871)

From this table it is estimated that approximately 70% of the external loading comes from residential land uses with approximately 15% from streets. Since 1986-87, external loading from the watershed has increased by 54% because of continuing development of homes and businesses. At the same time, the total phosphorus loading to the lake has decreased by 53% (see Graphs B and C). The overall decrease is a result of closing access to a local landfill by thousands of seagulls that used Lake Stevens and a reduction in internal loading from the lake sediments because of the success of the aeration system. Internal loading is now about 44% of the total phosphorus loading to the lake. These changes mean that external loading from runoff from developed areas accounts for a much larger portion of the phosphorus in Lake Stevens. Controlling both internal and external phosphorus loading will be important in maintaining the water quality of the lake.



Graph B – Total Phosphorus Loading by Source in 1986-87



Graph C – Total Phosphorus Loading by Source 2007-2011

Aerator

The aerator's function is to provide oxygen to the sediment to maintain a phosphorus-iron bond and control the release of phosphorus from the sediment. During the summer months oxygen levels are depleted,

especially in the deeper water, and the aerator is activated to replenish the oxygen in the water column. The aerator typically operates from late June through October. The activation is determined based on oxygen level readings of the lake (performed by Snohomish County).

The cost to operate and maintain the aerator system is shared between the City and the County with the City covering the majority of the costs. The share paid by each agency is based on the amount of watershed area contributing to the lake. The annual cost to operate the aerator is approximately \$35,000 which includes power consumption and staffing. However, for the past six years the estimated average annual cost including maintenance (repairs) has been estimated at over \$110,000 per year.

In 2012, the aerator system in the lake stopped functioning when the float support structure failed. Emergency temporary repairs were performed to keep the aerator system from sinking but it was not operational following the work. The repairs to make the system operational were estimated to exceed \$100,000 and would take months to complete. In addition, it was discovered that there may be other problems with the system that could not be inspected until the initial operational repairs were completed. A decision was made by the City and County to reassess the continued operations of the aerator system prior to expending further funds on repairs.

Phosphorus Management

A phosphorus managing strategy needs to focus on activities in the watershed and in-lake restoration techniques. According to Washington State Department of Ecology, lake management approaches fall into two categories: 1) the quick-fix; and 2) the long-term. The quick-fix is addressing the symptom, such as an algae treatment but does not address the underlying causes of the problem. A quick-fix being only a short term solution is not considered a good investment of resources. To be effective, a phosphorus management plan needs to be a long-term strategy and commitment.

Long-term management should consider the environmental, cultural, and biological factors affecting the lake and sets a priority on finding lasting solutions. It will require a coordinated effort of community groups, individuals, landowners, and the City and County.

It is important to understand that the phosphorus problem that Lake Stevens is experiencing is a combination of both internal and external loading. If the external source could be entirely eliminated, Lake Stevens would continue to have a phosphorus problem for possibly several decades. This is because phosphorus would continue to recycle within the lake from vegetation and animal life cycles, as well as release from the sediment, continuing the cyclic recurrence of algal growth, death, decay, and overall eutrophication² of the lake. Conversely, if only the internal loading is addressed, the phosphorus condition in the lake will improve but the introduction of new phosphorus would offset the initial benefits of the treatment. Therefore in order to be successful the program should strive to manage both external and internal nutrients.

Aluminum sulfate (alum) is the most commonly used nutrient inactivation chemical for lake projects. Managers may apply alum in small doses to precipitate water column phosphorus. When applied to water, alum forms a fluffy aluminum hydroxide precipitate called a floc. As the floc settles, it removes phosphorus and particulates (including algae) from the water column (precipitation). The floc settles on the sediment where it forms a layer that acts as barrier to phosphorus. As sediments release phosphorus, it combines with the alum and is not released into the water to fuel algae blooms (inactivation). Algal levels decline after alum treatment because alum addition reduces phosphorus levels in the water. (Except from Washington State DOE web site)

² Excessive richness of nutrients in a lake that stimulate excessive plant growth.

Phosphorus Control Alternatives

There are three basic alternatives to manage the phosphorus loading in Lake Stevens: 1) control internal loading within the lake; 2) reduce external loadings entering the lake; and 3) take no action. Within alternate one and two are possible options that can be considered standalones to accomplish some portion of the phosphorus control. A combination of option one and two is possible too.

Control Internal Phosphorus Loading

ID	Option	Discussion	Phosphorus Control	Estimated annual cost
IL 1	Operation of the aerator only	Aerator is near the end of its life span and has required annual repairs. It is expected that the aerator will need some major repairs in the next five years to keep it operational. The estimated annual cost for O&M is \$120,000 with an additional \$400,000 estimated for major repairs over the next five years. It may be possible to continue to extend the life of the system, vs replacement, by the performance of continued repairs and upgrades. While it is unknown the extent of this type of improvement needed to accomplish this, it is estimated that a set aside cost of \$200,000 annually should be budgeted (include O&M)	Controls phosphorus bonded with iron in deep water lake sediment, but testing has shown that there is not enough iron to bind all the available phosphorus. Does not control phosphorus suspended in water column. Aerator abilities to control new phosphorus loading are currently near capacity and algae occurrences are expected to increase.	\$200,000
IL 2	Aluminum sulfate (alum) Treatment only to water column	Aluminum is within the lake from natural occurrence. Addition of aluminum concentration in the lake water is an acceptable practice by the State DOE and would be applied to maintain the lake within EPA drinking water standards very shortly after application.	Controls phosphorus loading in water column. Over time, annual alum treatments can contribute to a permanent reduction of internal phosphorus loading from the sediment. Algae occurrences are expect to decrease shortly after an application.	\$100,000
IL 3	Aerator and Alum Treatment	Combination of Option IL 1 and IL 2. With the use of the aerator, alum treatment area could be reduced. However, this would result in some phosphorus remaining in the water column.	In the short term, results are expected to be a decrease in algae however, if a reduction in Alum is applied (over IL 2), the sediment could continue to release phosphorus from the deeper waters.	\$250,000 to \$300,000

Reduce External Source Loading – The following options were developed using information provided from the City of Bellingham for phosphorus control on Lake Whatcom in an effort to reduce algae. The cost-benefit is defined solely as phosphorus reduction though there may be other benefit (eg: street trees also have a benefit of shade, reduction in runoff, and aesthesis). The costs shown only reflect costs to the City and not to others such as developers.

ID	Option	Discussion	Cost Benefit \$/lb/P*
X 1	Reducing development land use	This could include the City’s acquisition of developable land for open space, down zoning, lot consolidation, and incentives for open space	\$190,000
X 2	Restoration of natural function of City land	City owned land would be restored to a natural condition such as re-forestation	\$50,0000
X3	Vegetated swales	Creation of bio-filtering swales	\$6,000,000
X 4	Rain garden	This could be a private or public bio-retention system that retains surface water runoff into a system that filters and infiltrates water on site. Due to soils conditions and water table levels, there are limited portions of the City where this could be used.	\$6,600,000
X 5	Street trees	Planting of street trees along open spaces on	\$9,405,000
X 6	Lawn replacement to bio-retention	Development of lands to retain water, similar to a rain garden, to prevent offsite runoff	\$5,000,000
X 7	Dry wells	This is not considered feasible due to ground conditions within the City.	NA
X 8	Infiltration trench	It is likely used on private property with very limited usage on public roads	\$318,000
X 9	Pervious pavement	New road construction would need to have both an infiltration system under the pavement and a off-site drainage system to accommodate higher volume storm events. The cost for maintenance of a pervious pavement for a roadway could be significant higher that a traditional paved roadway. Private parking is likely a good application.	\$1,111,000
X 10	Infiltration basin	Storm ponds would be the common application of this type and would be best applied to new development. Due to the City’s high water table and soil conditions, this application would be limited.	\$172,721
X 11	Rainwater reuse	Benefits would be too low to estimate a cost to benefit number	NA
X 12	Onsite dispersion	This could be a private or public system that retains surface water runoff into a system that filters and infiltrates water on site. Due to soils conditions and water table levels, there are limited portions of the City where this could be used.	\$4,853,000
X 13	Media filters	Installation of filtration systems would need to be installed at key locations prior to entering the streams. This would be difficult to provide an effective system due to the high number in outfalls.	\$258,000

X 14	Sizing culverts to eliminate erosion	Benefits would be too low to estimate a cost to benefit number	NA
X 15	Street sweeping	The City performs this service regardless of the phosphorus benefit so cost is considered part of existing operation budget.	\$28,500
X 16	Stream erosion control	Could provide indirect phosphorus reduction. Would be very time consuming to investigate and permit for work.	NA**
X 17	Ban phosphorus fertilizer	New State law bans use and sale of phosphorus in lawn fertilizers except for new lawns or where a soil test shows the need for phosphorus.	NA**
X 18	Watershed signs	Education effort to post signs around City. Estimate 300 sign placements. Estimated material cost \$24,000. Staff time is not included.	NA**
X 19	Mass mailing	Preparation and mailing of education material. Mailing could be included in a utility billing. This assumes the cost of printing. Estimated material cost \$3,000/year. Staff time is not included.	NA**
X 20	Online information	Post information on the City's web page	NA**
X 21	Newspaper articles	A press release a few times a year reminding the public of the impacts of phosphorus into the lake and methods to help reduce it.	NA**
X 22	Video presentations	This could be performed through the High School which has video capacity. This would then be posted on the City's cable site (Channel 21).	NA**
X 23	Community events	This is currently being practiced. The City has generated several handout flyers that are provided during community events when the City has a booth setup.	NA**
X 24	Onsite training	This would likely be in partnership with Snohomish County that is set up to provide this type of service to contractors, developers, and the general public. This would require a ILA with the County and it is anticipated that the City would share in the cost for staffing and information. It is estimated that this would be in the range from \$6,000 to \$20,000/year.	NA**
X 25	Resident contacts	Enforcement or education efforts to contact individuals based on observations or suspected practices that are generating phosphorus into the runoff. This could require extensive time to locate.	NA**
X 26	Project consultation	City would provide a consultation service to individuals (such as contractors) on methods to help in the control of phosphorus	NA**
X 27	Incentives	A fund account can be set up that provides monetary incentives for volunteer compliance in City identified methods of phosphorus reduction.	NA**
X 28	Forest condition to pre-development conditions	Does not apply to the City	\$80.65

X 29	Design standard change	Update standards to reduce runoff from future impervious surfaces such as roads and sidewalks the use of infiltration and bio-filtering.	\$371,171
X 30	Reconfigure roadside ditches	Existing roadside ditches would be modified to reduce erosion and provide plants to help with the removal of phosphorus. This would have a significant increase in O&M.	\$6,000,000
X 31	Reconfigure streets	Modify streets to reduce runoff and improve filtration of surface water.	\$4,755,000
X 32	Reduce vehicle trips	This has been incorporated into the two subarea plans and the sidewalk plan that helps reduce the dependents of vehicle for travel within the City.	NA
X 33	Improve recreation facilities	Provide enhancement to City recreation areas to reduce runoff. This study showed that the benefits to be very low.	NA
X 34	Watershed-wide enforcement	This would likely be in partnership with Snohomish County that is set up to provide this type of service to contractors, developers, and the general public. This would require a ILA with the County and it is anticipated that the City would share in the cost for staffing and information. It is estimated that this would be in the range from \$10,000 to \$40,000/year.	NA
X 35	Animal waste	City provides pick up bags at some recreation areas. Education material has been produced by the City that is provided at community events.	NA
X 36	Septic system to sewer connection	It is unknown the level of this condition within the watershed. City is talking with Sewer District on this item.	NA

“*” Cost information provided by “The Lake Whatcom Management Program Work Plan 2010-2014” – July 2010 CH2M Hill

- Costs do not include on-going maintenance and operations.

“**” The cost benefit is difficult to estimate and impossible to measure. It is important though that education can result in an accumulative result in phosphorus reduction.

Italic These are current practices in part or whole within the budget.

Take No Action - This is not considered a viable option as it is suspected that algae bloom events would be on an increase with the current internal and external loading.

Discussion

Due to the high levels of phosphorus already in the lake water column and sediment, removal of external phosphorus sources is expected to not be enough to address the water quality problem with algae. The aerator has been the main method for managing phosphorus within the lake for the past 19 years. Its treatment has maintained the iron-phosphorus bond in the lakes sediments in the deepest part of the lake but has had no effect on water suspended phosphorus or the shallow sediments. It had been an effective means to controlling most of the phosphorus problems but in recent years the loading has exceeded the aerator's capacity. In addition, the aerator is close to the end of its operating life and is in need of some extensive repairs and on-going maintenance.

In accordance with a study prepared for Snohomish County by Tetra Tech in September 2012, "Alum treatment, at even a modest maintenance dose, should control internal loading more effectively than continued aeration. Moreover, alum should have more of an effect on reducing the spring cyanobacteria blooms (algae) than aeration." This would address the condition in the lake from both internal and external loading. While alum treatment in the lake is a very cost effective solution, and can function as the only solution to addressing the condition, it does nothing to reduce the external loading condition.

The City of Bellingham had performed an extensive study to manage phosphorus condition in Lake Whatcom. This had an extensive list for reducing external loadings which was used in the development of the Reduce External Loading Source section of this plan. While the costs to benefit numbers are applicable to Lake Whatcom, most of their costs were used in this document for comparison purpose against the different options. From this information, the cost for controlling external loading can be beyond the ability of most public agencies. Especially when compared to the benefits. However, any effort that may reduce the external loading can have a long term effect to water quality and public's awareness.

Recommendations

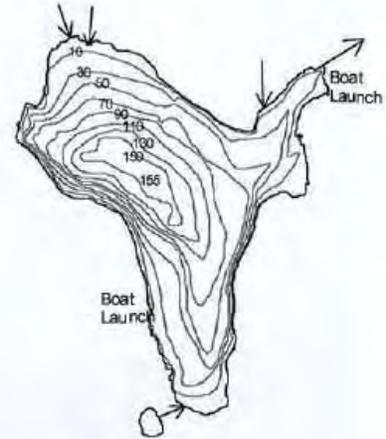
The recommendations are:

1. Control internal loading – Small, annual alum treatments to remove phosphorus from the water column and over time reduce internal loading from the sediments. Alum treatments will also address phosphorus in shallow areas and phosphorus in organic matter that is not controlled by the aerator.
2. Reduce the external loading – education, regulations (code and standards), and annual monitoring in lake.
3. Phase out aerator – aerator will remain in the lake at least through 2018 and a determination of its removal or reactivation will need to be made. City will perform minimum maintenance to keep the aerator system floating.
4. Monitor and review – determine success of actions and revise as needed

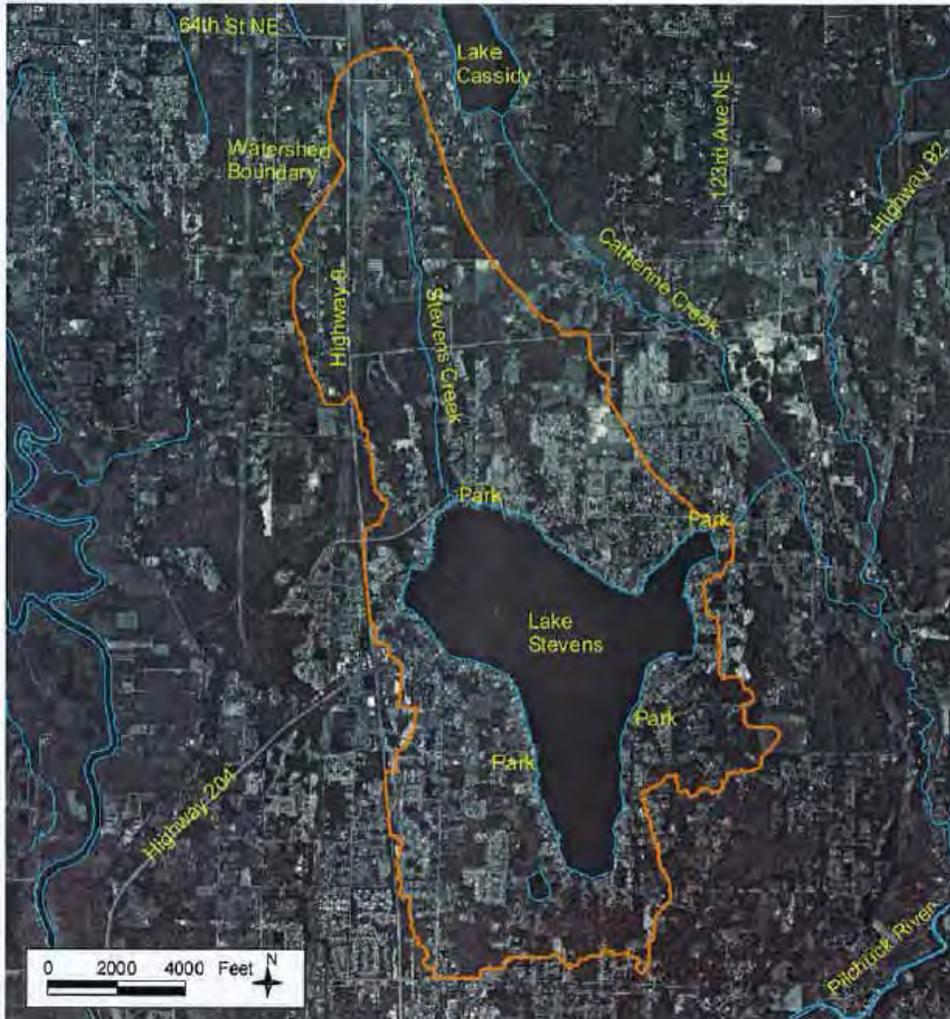
Attachment A

LAKE AND WATERSHED DATA

Lake Area: 1040 acres
 Watershed Area: 4371 acres
 Watershed to Lake Area Ratio: 4.2
 Maximum Depth: 155 feet (47.3 meters)
 Average Depth: 63 feet (19.4 meters)
 Lake Volume: 65,000 acre-feet
 Length of Shore: 7.1 miles



	<u>1972</u>	<u>MID-90'S</u>
# of nearshore homes	330	349
# of homes/1000' of shoreline	8.8	9.3
% of homes with bulkhead or fill		NA
% of homes with some native vegetation near shore		NA
% of watershed developed (residential or commercial)	20%	55% (est.)



Lake Stevens

Attachment B



PRESS RELEASE – 27 June 12

Algae Blooms in Lake Stevens

The City of Lake Stevens and Snohomish County Surface Water Management (SWM) have been monitoring a series of algae blooms occurring this spring on Lake Stevens. Most of the observed algae has been harmless filamentous algae which appears as green and brown free-floating mats. However, in mid-June, blooms of potentially toxic blue-green algae were also detected in isolated parts of the lake.

Also known as cyanobacteria, certain species of blue-green algae can produce toxins that affect the health of people and animals that recreate in lake water. Pets that drink lake water are of special concern. Blue-green algae look like blue, green, or even white paint floating on the surface of the water and will quickly dissipate if agitated.

Water samples were taken within hours of the initial confirmation of blue-green blooms. Since toxin testing takes several days, precautionary notifications were issued to nearby lakefront residents and CAUTION signs (see below) were posted at the public access location around the entire lake. The signs, warn people not to swim or ski in areas of scum, avoid drinking lake water, keep pets away from the water; clean fish well; and avoid areas of scum when boating.

Fortunately, the toxins of concern were found at levels below the recreational standards set by the Washington State Department of Health. The blue-green algae bloom has also since dissipated. Therefore, the CAUTION signs posted at all public access sites will be removed. The County and the City will continue to monitor the algae bloom. It is possible that blue-green algae blooms may re-occur this summer or fall. Citizens should exercise caution if blue-green algae scum is present.

CAUTION

TOXIC ALGAE MAY BE PRESENT
Lake may be unsafe for people and pets

Until further notice:

- **Do not swim or water ski in areas of scum.**
No nade ni riegue el esquí en áreas de la espuma
- **Do not drink lake water.**
No beba el agua del lago
- **Keep pets and livestock away.**
Animales domésticos y ganado de la subsistencia lejos
- **Clean fish well and discard guts.**
Limpie los pescados bien y deseche la tripa
- **Avoid areas of scum when boating.**
Evite las áreas de la espuma cuando canotaje

Call your doctor or veterinarian if you or your animals have sudden or unexplained sickness or signs of poisoning.

Call your local health department:	Report new algae blooms to Department of Ecology: 360-407-6000
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For more information: www.doh.wa.gov/chp/algae/default
www.ecy.wa.gov/programs/wq/plants/algae/index.html

Algae are microscopic organisms similar to plants that can be found in all freshwater lakes including Lake Stevens. Algae are a natural and essential component to the lake because they serve as the base of the aquatic food chain. However, excessive amounts of algae can occur in response to high levels of nutrients and favorable weather conditions. Typical nutrient sources are lawn fertilizers, runoff from roofs and driveways, and pet and animal wastes. Last year's Eurasian water milfoil treatment may also be contributing to the growth. The decomposing plant matter can become a localized source of nutrients feeding algae. This is typical in the first year following a treatment.

To find out more information, track conditions at Lake Stevens, report blooms, or sign up for email toxic algae updates visit the County's web site at: <http://www.lakes.surfacewater.info>.

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Exhibit B

**PHOSPHORUS TREATMENT
 DRAFT FINANCIAL PLAN**

The following table is the cost projections for the treatment of phosphorus only.

Year	Existing Aerator Operating Budget/ Forecast	Existing Aerator Capital Forecast	Alum Treatment*	Aerator Only**	Aerator & Alum Treatment***
2013	\$66,000	\$135,000	\$100,000	\$200,000	\$250,000
2014	\$68,000	\$40,000	\$100,000	\$200,000	\$250,000
2015	\$70,000	\$40,000	\$100,000	\$200,000	\$250,000
2016	\$70,000	\$40,000	\$100,000	\$200,000	\$250,000
2017	\$74,000	\$40,000	\$100,000	\$200,000	\$250,000
2018	\$76,000	\$40,000	\$100,000	\$200,000	\$250,000
2019	\$78,000	\$40,000	\$100,000	\$200,000	\$250,000
TOTAL	\$502,000	\$375,000	\$700,000	\$1,400,000	\$1,750,000

Note:

- ‘**’ Includes application of alum and permitting. Not included is the removal of the aerator.
- ‘***’ Includes operating costs, minor annual repairs, and one major repair. The major repair costs is spread over the time evenly. Not includes is replacement costs. It is assumed that the existing unit can be repaired for an extended time beyond a 20 year life (e.g.: 1994 to 2014).
- ‘****’ Includes the same costs as the “Aerator Only” column plus a reduce dosage of alum treatment.

The following table is the cost projections for the aerator.

Alternative Treatment Type	Short Term (10 years)	Long Term (20 years)	Short Term Estimated Cost (10 year span)	Long Term Estimated Cost (replacement)
Alum Treatment	Aerator is left in place for 5 years during evaluation period	Aerator is surpluses and removed from lake	\$300,000	\$0
Aerator Only	Aerator is repaired as needed to keep operational with two major repairs expected	Aerator system is replaced	\$2,000,000	\$4,000,000
Aerator & Alum Treatment	Same as aerator only & capital contribution	Same as aerator only & capital contribution	\$2,500,000	\$4,000,000



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LAKE STEVENS CITY COUNCIL
STAFF REPORT

Council Agenda Date: 28 January 2013

Subject: Declaration of Emergency for the immediate service to remove debris and stabilize a landslide area at 1201 East Lakeshore Drive.

Contact Mick Monken **Budget Impact:** \$11,200 Est
Person/Department: Public Works

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL: Three Action; 1) Declare a state of emergency for the immediate services for the removal of mud and debris, slope stabilization, and technical support for the landslide area at 1201 East Lakeshore Drive; 2) authorize Mayor to execute a Professional Service Agreement with Robinson-Noble for Geotechnical Service in an amount not to exceed \$5,000; and 3) authorize Mayor to execute a Small Works Contract with J&M Septic Installation Inc. in an amount not to exceed \$6,152.70.

SUMMARY/BACKGROUND: Early in the morning of the 11th of January a landslide occurred at the 1200 block of East Lakeshore Drive. The landslide material was estimated at 100 plus cubic yards of mud and vegetation debris. The slide left half of East Lakeshore Drive blocked. Due to the unknown stability of the slide area, the roadway was closed to through traffic and a detour setup. The weather had been dry for several of the proceeding days and on the day of the slide temperatures were in the mid 20s to mid 30s.

Public Works responded to the notification of the slide from the Police Department. It was found that a water service to the property just above the slide area was showing a high flow through the meter. No one was home at the property and the City crew shut of the water. At this time it was unknown if the slide may have broken the water service or the water service was the cause of the slide.

Due to the impact to the road and the potential impact to the public safety, immediate action was taken. This included contracting services for a Geotechnical Engineer and a Contractor. The Geotechnical Engineer's service was to establish a method to temporarily stabilize the slide area and to assist in determining the cause of the slide. The Contractor, who had been working in the area, was contracted to perform mud and debris removal and implement the temporary stabilization of the slide area.

Two contracts were executed on a time and material basis. The Geotechnical Engineer, Robinson Noble, had a contract prepared for an amount not to exceed \$5,000. The Contractor, J&M Septic Installation Inc., had a contract prepared for an amount not to exceed \$6,152.70.

In the investigation, it was found that the water service was broken on the upstream property and was running water over the slope area. It is unknown how long this had been occurring but records from PUD dating back to earlier in the year showed that this was a reported problem to the property owner. The house is currently not occupied by this individual. The City has been in contact with the bank that manages this property and a claim for full cost recovery for the services is being sought. While not included in the estimated \$11,200 contract services, the City will be seeking cost recovery for the call out time for staff.

APPLICABLE CITY POLICIES: RCW 39.04.280: Competitive Bidding Requirements

BUDGET IMPACT: Estimate \$11,200 which includes geotechnical services, materials, and contracted services for the earthwork. Funds will come from Streets – Repair and Maintenance. Reimbursement in the full amount will be sought from the property manager.

ATTACHMENTS:

- ▶ Exhibit A: Resolution 2013-2
- ▶ Exhibit B: Professional Service Agreement – Geotechnical Services
- ▶ Exhibit C: Small Works – Earthwork

Exhibit A

CITY OF LAKE STEVENS
LAKE STEVENS, Washington

RESOLUTION NO. 2013-2

A RESOLUTION OF THE CITY OF LAKE STEVENS DECLARING AN EMERGENCY TO EXIST AND AUTHORIZING AN EMERGENCY WORKS CONTRACT TO PERFORM SERVICES TO REMOVE MUD AND VEGETATION DEBRIS AND STABILIZE A LANDSLIDE AREA ON EAST SIDE OF THE 1200 BLOCK OF EAST LAKESHORE DRIVE

WHEREAS, around 01:30 on the 11th of January 2013 a landslide occurred along the east side of East Lakeshore Drive in the 1200 block; and

WHEREAS, the landslide resulted in blockage of one full lane of East Lakeshore Drive with mud and vegetation debris; and

WHEREAS, East Lakeshore Drive is the only north south direct through route on the east side of the lake; and

WHEREAS, the East Lakeshore Drive northbound lane was block and the stability of the slide threatens safety of travel on the remaining unblocked lane; and

WHEREAS, the City Engineer has determined that a soils investigation was necessary to determine measures needed to stabilize the slide area to protect public safety; and

WHEREAS, in the interest of public safety the City enacted a temporary road closure until a determination of the slide area stability could be determined; and

WHEREAS, the public health, safety and welfare of the City's citizens and businesses may be jeopardized if the competitive bid process is not waived and if immediate repair work is not commenced;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAKE STEVENS, WASHINGTON AS FOLLOWS:

1. An emergency exists such that the public health, safety and welfare would suffer material injury or damage by delay, and such emergency is now hereby proclaimed.
2. The facts constituting the emergency are set forth in the recital paragraphs of this Resolution.
3. Pursuant to RCW 39.04.280, the City Council does hereby waive the requirements of public bidding (including RCW 35A.40.200-210, RCW 35.23.620 and RCW 39.04.020) to contract for the repair and restoration of the roadway prism.
4. The City Council does hereby authorize the Mayor to enter into two emergency work contracts as determined necessary with a qualified professional service provider/s and contractor/s to perform investigation and to perform temporary measures to stabilize the slide area on the eastside of

East Lakeshore Drive in the 1200 block.

PASSED by the City Council and APPROVED by the Mayor this 28th day of
January 2013.

CITY OF LAKE STEVENS

Vern Little, Mayor

ATTEST:

Norma J. Scott, City Clerk/Admin Asst

Approved as to form:

By _____
Grant K. Weed, City Attorney

EXHIBIT B

**PROFESSIONAL SERVICES AGREEMENT BETWEEN
CITY OF LAKE STEVENS
AND ROBINSON NOBLE, INC.
FOR 1201 E. LAKESHORE DRIVE – EMERGENCY LANDSLIDE STABILIZATION**

THIS AGREEMENT, made and entered into in Snohomish County, Washington, by and between CITY OF LAKE STEVENS, hereinafter called the "City," and ROBINSON NOBLE, Inc., a Washington corporation, hereinafter called the "Consultant."

WHEREAS, the Consultant has represented, and by entering into this Agreement now represents, that the firm and all employees assigned to work on any City project are in full compliance with the statutes of the State of Washington governing activities to be performed and that all personnel to be assigned to the work required under this agreement are fully qualified and properly licensed to perform the work to which they will be assigned.

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performances contained herein below, the parties hereto agree as follows:

ARTICLE I. PURPOSE

The purpose of this agreement is to provide the City with consulting services to **perform geotechnical investigation and provide recommendations** as described in Article II. The general terms and conditions of relationships between the City and the Consultant are specified in this agreement.

ARTICLE II. SCOPE OF WORK

The scope of work consists of evaluating the cause of the bank failure and providing a solution for stabilizing the slope at the landslide location and determining the safety and stability of E. Lakeshore Drive. All services and materials necessary to accomplish these tasks shall be provided by the Consultant unless noted otherwise in the scope of services or this agreement.

ARTICLE III. OBLIGATIONS OF THE CONSULTANT

III.1 **MINOR CHANGES IN SCOPE.** The Consultant shall accept minor changes, amendments, or revision in the detail of the work as may be required by the City when such changes will not have any impact on the service costs or proposed delivery schedule. Extra work, if any, involving substantial changes and/or changes in cost or schedules will be addressed as follows:

Extra Work. The City may desire to have the Consultant perform work or render services

in connection with each project in addition to or other than work provided for by the expressed intent of the scope of work in the scope of services. Such work will be considered as extra work and will be specified in a written supplement to the scope of services, to be signed by both parties, which will set forth the nature and the scope thereof. All proposals for extra work or services shall be prepared by the Consultant at no cost to the City. Work under a supplemental agreement shall not proceed until executed in writing by the parties.

III.2 WORK PRODUCT AND DOCUMENTS. The work product and all documents listed in the scope of services shall be furnished by the Consultant to the City, and upon completion of the work shall become the property of the City, except that the Consultant may retain one copy of the work product and documents for its records. The Consultant will be responsible for the accuracy of the work, even though the work has been accepted by the City.

In the event that the Consultant shall default on this agreement or in the event that this contract shall be terminated prior to its completion as herein provided, all work product of the Consultant, along with a summary of work done to date of default or termination, shall become the property of the City. Upon request, the Consultant shall tender the work product and summary to the City. Tender of said work product shall be a prerequisite to final payment under this contract. The summary of work done shall be prepared at no additional cost to the City.

Consultant will not be held liable for reuse of these documents or modifications thereof for any purpose other than those authorized under this Agreement without the written authorization of Consultant.

III.3 TIME OF PERFORMANCE. The Consultant shall be authorized to begin work under the terms of this agreement upon signing of both the scope of services and this agreement and shall complete the work within 90 days, unless a mutual written agreement is signed to change the schedule. An extension of the time for completion may be given by the City due to conditions not expected or anticipated at the time of execution of this agreement.

III.4 NONASSIGNABLE. The services to be provided by the Consultant shall not be assigned or subcontracted without the express written consent of the City.

III.5 EMPLOYMENT. Any and all employees of the Consultant, while engaged in the performance of any work or services required by the Consultant under this agreement, shall be considered employees of the Consultant only and not of the City, and any and all claims that may or might arise under the Workman's Compensation Act on behalf of any said employees while so engaged, and any and all claims made by any third party as a consequence of any negligent act or omission on the part of the Consultant or its employees while so engaged in any of the work or services provided herein shall be the sole obligation of the Consultant.

III.6 INDEMNITY.

a. The Consultant will at all times indemnify and hold harmless and defend

the City, its elected officials, officers, employees, agents and representatives, from and against any and all lawsuits, damages, costs, charges, expenses, judgments and liabilities, including attorney's fees (including attorney's fees in establishing indemnification), collectively referred to herein as "losses" resulting from, arising out of, or related to one or more claims arising out of negligent acts, errors, or omissions of the Engineer in performance of Engineer's professional services under this agreement. The term "claims" as used herein shall mean all claims, lawsuits, causes of action, and other legal actions and proceedings of whatsoever nature, involving bodily or personal injury or death of any person or damage to any property including, but not limited to, persons employed by the City, the Engineer or other person and all property owned or claimed by the City, the Engineer, or affiliate of the Engineer, or any other person.

b. Should a court of competent jurisdiction determine that this agreement is subject to RCW 4.24.115, then, in the event of liability for damaging arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Engineer and the City, its members, officers, employees and agents, the Engineer's liability to the City, by way of indemnification, shall be only to the extent of the Engineer's negligence.

c. The provisions of this section shall survive the expiration or termination of this agreement.

III.7 INSURANCE.

a. **Minimum Limits of Insurance.** The Consultant shall, before commencing work under this agreement, file with the City certificates of insurance coverage to be kept in force continuously during this agreement, and during all work performed pursuant to all short form agreements, in a form acceptable to the City. Said certificates shall name the City as an additional named insured with respect to all coverages except professional liability insurance. The minimum insurance requirements shall be as follows:

(1) Comprehensive General Liability. \$1,000,000 combined single limit per occurrence for bodily injury personal injury and property damage; \$2,000,000 general aggregate;

(2) Automobile Liability. \$300,000 combined single limit per accident for bodily injury and property damage;

(3) Workers' Compensation. Workers' compensation limits as required by the Workers' Compensation Act of Washington;

(4) Consultant's Errors and Omissions Liability. \$1,000,000 per occurrence and as an annual aggregate.

b. **Endorsement.** Each insurance policy shall be endorsed to state that

coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

c. **Acceptability of Insurers.** Insurance to be provided by Consultant shall be with a Bests rating of no less than A:VII, or if not rated by Bests, with minimum surpluses the equivalent of Bests' VII rating.

d. **Verification of Coverage.** In signing this agreement, the Consultant is acknowledging and representing that required insurance is active and current.

III.8 DISCRIMINATION PROHIBITED AND COMPLIANCE WITH EQUAL OPPORTUNITY LEGISLATION. The Consultant agrees to comply with equal opportunity employment and not to discriminate against client, employee, or applicant for employment or for services because of race, creed, color, religion, national origin, marital status, sex, age or handicap except for a bona fide occupational qualification with regard, but not limited to, the following: employment upgrading; demotion or transfer; recruitment or any recruitment advertising; layoff or terminations; rates of pay or other forms of compensation; selection for training, rendition of services. The Consultant further agrees to maintain (as appropriate) notices, posted in conspicuous places, setting forth the provisions of this nondiscrimination clause. The Consultant understands and agrees that if it violates this nondiscrimination provision, this agreement may be terminated by the City, and further that the Consultant will be barred from performing any services for the City now or in the future, unless a showing is made satisfactory to the City that discriminatory practices have been terminated and that recurrence of such action is unlikely.

III.9 UNFAIR EMPLOYMENT PRACTICES. During the performance of this agreement, the Consultant agrees to comply with RCW 49.60.180, prohibiting unfair employment practices.

III.10 AFFIRMATIVE ACTION. Affirmative action shall be implemented by the Consultant to ensure that applicants for employment and all employees are treated without regard to race, creed, color, sex, age, marital status, national origin or the presence of any sensory, mental or physical handicap, unless based on a bona fide occupational qualification. The Consultant agrees to take affirmative action to ensure that all of its employees and agent adhere to this provision.

III.11 LEGAL RELATIONS. The Consultant shall comply with all federal, state and local laws and ordinances applicable to work to be done under this agreement. This contract shall be interpreted and construed in accordance with the laws of Washington. Venue for any action commenced relating to the interpretation, breach or enforcement of this agreement shall be in Snohomish County Superior Court.

III.12 INDEPENDENT CONTRACTOR. The Consultant's relation to the City shall at all times be as an independent contractor.

III.13 CONFLICTS OF INTEREST. While this is a non-exclusive agreement the Consultant

agrees to and will notify the City of any potential conflicts of interest in Consultant's client base and will seek and obtain written permission from the City prior to providing services to third parties where a conflict of interest is apparent. If a conflict is irreconcilable, the City reserves the right to terminate this agreement.

III.14 CITY CONFIDENCES. The Consultant agrees to and will keep in strict confidence, and will not disclose, communicate or advertise to third parties without specific prior written consent from the City in each instance, the confidences of the City or any information regarding the City or services provided to the City.

ARTICLE IV. OBLIGATIONS OF THE CITY

IV.1 PAYMENTS. The Consultant shall be paid by the City for completed work for services rendered under this agreement and as detailed in the scope of services as provided hereinafter. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment and incidentals necessary to complete the work. Payment shall be on a time and expense basis, provided, however, in no event shall total payment under this agreement exceed Five Thousand Dollars (\$5,000). In the event the City elects to expand the scope of services from that set forth in **ARTICLE II SCOPE OF WORK**, the City shall pay Consultant an additional amount based on a time and expense basis, based upon Consultant's current schedule of hourly rates.

a. Invoices shall be submitted by the Consultant to the City for payment pursuant to the terms of the scope of services. The invoice will state the time expended, the hourly rate, a detailed description of the work performed, and the expenses incurred during the preceding month. Invoices must be submitted by the 20th day of the month to be paid by the 15th day of the next calendar month.

b. The City will pay timely submitted and approved invoices received before the 20th of each month within thirty (30) days of receipt.

IV.2 CITY APPROVAL. Notwithstanding the Consultant's status as an independent contractor, results of the work performed pursuant to this contract must meet the approval of the City, which shall not be unreasonably withheld if work has been completed in compliance with the scope of work and City requirements.

ARTICLE V. GENERAL

V.1 NOTICES. Notices to the City shall be sent to the following address:

CITY OF LAKE STEVENS
C/O Mick Monken
PO Box 257
LAKE STEVENS, WA 98258

Notices to the Consultant shall be sent to the following address:

Chuck Couvrette
Robinson Noble
17625 130th Avenue NE, Suite 102
Woodinville, WA 98072

Receipt of any notice shall be deemed effective three (3) days after deposit of written notice in the U.S. mail with proper postage and address.

V.2 **TERMINATION.** The right is reserved by the City to terminate this agreement in whole or in part at any time upon ten (10) days' written notice to the Consultant.

If this agreement is terminated in its entirety by the City for its convenience, a final payment shall be made to the Consultant which, when added to any payments previously made, shall total the actual costs plus the same percentage of the fixed fee as the work completed at the time of termination applied to the total work required for the project.

V.3 **DISPUTES.** The parties agree that, following reasonable attempts at negotiation and compromise, any unresolved dispute arising under this contract may be resolved by a mutually agreed-upon alternative dispute resolution of arbitration or mediation.

V.4 **NONWAIVER.** Waiver by the City of any provision of this agreement or any time limitation provided for in this agreement shall not constitute a waiver of any other provision.

DATED this _____ day of _____, 2013.

CITY OF LAKE STEVENS

By _____
VERN LITTLE, MAYOR

_____, CONSULTANT

By _____

Approved as to form:

GRANT K. WEED, City Attorney

PROFESSIONAL SERVICES AGREEMENT - 7

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EXHIBIT C

SMALL PUBLIC WORKS CONTRACT

THIS SMALL PUBLIC WORKS CONTRACT (“Contract”) is made and entered into this _____ day of _____, 20____, by and between J & M Septic Installation Inc. (“Contractor”) and the City of Lake Stevens, a municipal corporation (“City”).

WHEREAS, the contractor has provided debris removal and clean up on an emergency basis; and

WHEREAS, the Contractor represents that it is qualified and possesses sufficient skills and the necessary capabilities to perform, carry out and complete said work and submitted a bid proposal for Time and Material to the City to do said emergency work; and

WHEREAS, the Contractor and the City desire to enter into this Contract for said work in accordance with the terms and conditions of this Contract.

NOW, THEREFORE, in consideration of the terms, conditions and agreements contained herein, the City and Contractor agree as follows:

1. Scope of Work—the Project.

The Contractor shall perform, carry out and complete the Debris Removal Project (“Project”) in accordance with this Contract and the incorporated Contract Documents specified in Section 2. The Project was substantially completed no later than January 11, 2013.

2. Contract Documents.

The following documents are incorporated into the Contract by this reference:

- a. Plans and Contract Drawings.
- b. Scope of Work.
- c. Proposal/Bid Submittal (attached).
- d. 2010 Standard Specifications for Road, Bridge, and Municipal Construction (WSDOT/APWA) (“Standard Specifications”) (referenced but not attached).
- e. 2010 APWA Supplement General Special Provisions (referenced but not attached).
- f. Addenda (**if any**)
- g. Payment and Performance Bond (attached) (**optional-see Section 5**).
- h. Retainage Bond (attached) (**optional-see Section 5**).

In the event of any inconsistencies or conflicts between the language of this Contract and these incorporated documents, the language of the Contract shall prevail over the language of the documents.

3. Commencement of Work.

Work commenced on an emergency basis and was substantially completed on January 11, 2013.

4. Time is of the Essence/Liquidated Damages.

Time is of the essence in the performance of this Contract. The Contractor shall diligently pursue the Project work to physical completion by no later than January 11, 2013.

5. Payment for Project.

a. Total Contract Sum for Project. Excluding approved changes or orders, the City shall pay the Contractor for satisfactory completion of the Project under the Contract a total Contract Sum not to exceed **Six thousand one hundred fifty two dollars and seventy cents (\$6,152.70)** in accordance with the Time and Material bid proposal and including all applicable Washington State Sales Tax. The total Contract Sum includes all expenses and costs incurred in planning, designing and constructing the Project, including, but not limited to, applicable sales and use taxes, costs and expenses for overhead, profit, labor, materials, supplies, permits, subcontractors, consultants, and professional services necessary to construct and complete the Project.

b. Payments shall be for Performance of Project Work. Payments for work provided hereunder shall be made following the performance of such work, unless otherwise permitted by law and approved in writing by the City. No payment shall be made for any work rendered by the Contractor except as identified and set forth in this Contract.

c. Right to Withhold Payments if Work is Unsatisfactory. If during the course of the Contract, the work rendered does not meet the requirements set forth in the Contract, the Contractor shall correct or modify the required work to comply with the requirements of the Contract. The City shall have the right to withhold payment for such work until it meets the requirements of the Contract.

d. Payments. Progress payments shall be based on the timely submittal by the Contractor of the City's standard payment request form. The form shall be appropriately completed and signed by the Contractor. Applications for payment not signed and/or completed shall be considered incomplete and ineligible for payment consideration. The City shall initiate

authorization for payment after receipt of a satisfactorily completed payment request form and shall make payment to the Contractor within approximately thirty (30) calendar days thereafter.

e. Payments for Alterations and/or Additions. Requests for changes orders and/or payments for any alterations in or additions to the work provided under this Contract shall be in accordance with the change order process set forth in Section 1-04.4 of the Standard Specifications.

f. Final Payment. As a small public works project under \$35,000, the City shall not withhold statutory retainage under RCW Chapter 60.28. However, the parties agree that the City shall not make the Final Payment to the Contractor under this Contract until the Public Works Director has issued a Final Acceptance of the Project and the following has occurred:

- i. A release has been obtained from the Washington State Department of Revenue.
- ii. Affidavits of Wages Paid for the Contractor and all Subcontractors are on file with the Contracting Agency (RCW 39.12.040).
- iii. A certificate of Payment of Contributions Penalties and Interest on Public Works Contract is received from the Washington State Employment Security Department.
- iv. Washington State Department of Labor and Industries (per Section 1-07.10 of the Standard Specifications) shows the Contractor is current with payments of industrial insurance and medical premiums.
- v. Releases from all of Contractor's subcontractors and/or suppliers have been provided to the City, or the period for filing claims by said subcontractors and/or suppliers has expired without claims being filed.
- vi. If requested by the City, the Contractor shall provide the City with proof that insurance required under Section 22 remains in effect.

g. Final Acceptance. Final Acceptance of the Project is determined when the Project is accepted by the Public Works Director as being one hundred percent (100%) complete.

h. Payment in the Event of Termination. In the event this Contract is terminated by the either party, the Contractor shall not be entitled to receive any further amounts due under this Contract until the work specified in the Scope of Work is satisfactorily completed, as scheduled, up to the date of termination. At such time, if the unpaid balance of the amount to be paid under the Contract exceeds the expense incurred by the City in finishing the work, and all damages sustained by the City or which may be sustained by the City or which may be sustained by the reason of such refusal, neglect, failure or discontinuance of Contractor performing the work, such excess shall be paid by the City to the Contractor. If the City's expense and damages exceed the unpaid balance, Contractor and his sureties shall be jointly and severally liable

therefore to the City and shall pay such difference to the City. Such expense and damages shall include all reasonable legal expenses and costs incurred by the City to protect the rights and interests of the City under the Contract.

i. Maintenance and Inspection of Financial Records. The Contractor and its subcontractors shall maintain reasonable books, accounts, records, documents and other evidence pertaining to the costs and expenses allowable, and the consideration paid under this Contract, in accordance with reasonable and customary accepted accounting practices. All such books of account and records required to be maintained by this Contract shall be subject to inspection and audit by representatives of City and/or of the Washington State Auditor at all reasonable times, and the Contractor shall afford the proper facilities for such inspection and audit to the extent such books and records are under control of the City, and all Project Contracts shall similarly provide for such inspection and audit rights. Such books of account and records may be copied by representatives of City and/or of the Washington State Auditor where necessary to conduct or document an audit. The Contractor shall preserve and make available all such books of account and records in its control for a period of three (3) years after final payment under this Contract, and Bunker Repair Project subcontracts shall impose similar duties on the subcontractors.

6. Term of Contract.

The term of this Contract commenced upon commencement of work and shall terminate upon final payment by the City to the Contractor, unless sooner terminated by either party under Section 7 or applicable provision of the Contract.

7. Termination of Contract.

a. Except as otherwise provided under this Contract, either party may terminate this Contract upon ten (10) working days' written notice to the other party in the event that said other party is in default and fails to cure such default within that ten-day period, or such longer period as provided by the non-defaulting party. The notice of termination shall state the reasons therefore and the effective date of the termination.

b. The City may also terminate this Contract in accordance with the provisions of Section 1-08.10 of the Standard Specifications.

8. Status of Contractor.

The Contractor is a licensed, bonded and insured contractor as required and in accordance with the laws of the State of Washington. Contractor is acting as an independent contractor in the performance of each and every part of this Contract. No officer, employee, volunteer, and/or agent of either party shall act on behalf of or represent him or herself as an agent or representative of the City. Contractor and its officers, employees, volunteers, agents, contractors

and/or subcontractors shall make no claim of City employment nor shall claim against the City any related employment benefits, social security, and/or retirement benefits. Nothing contained herein shall be interpreted as creating a relationship of servant, employee, partnership or agency between Contractor and the City.

9. Permits.

The Contractor will apply for, pay for and obtain any and all City, county, state and federal permits necessary to commence, construct and complete the Project. All required permits and associated costs shall be included in the Total Contract Sum for Project.

10. Business License Required.

The Contractor shall obtain a City of Lake Stevens Business License prior to commencement of work under this Contract.

11. Work Ethic.

The Contractor shall perform all work and services under and pursuant to this Contract in timely, professional and workmanlike manner.

12. City Ownership of Work Products.

All work products (reports, maps, designs, specifications, etc.) prepared by or at the request of Contractor regarding the planning, design and construction of the Project shall be the property of the City. Contractor shall provide the City with paper and electronic copies of all work products in possession or control of Contractor at the request of final payment from Contractor or upon written request from the City.

13. Job Safety.

a. General Job Safety. Contractor shall take all necessary precaution for the safety of employees on the work site and shall comply with all applicable provisions of federal, state and local regulations, ordinances and codes. Contractor shall erect and properly maintain, at all times, as required by the conditions and progress of the work, all necessary safeguards for the protection of workers and the public and shall post danger signs warning against known and unusual hazards.

b. Trench Safety Systems. The Contractor shall ensure that all trenches are provided with adequate safety systems as required by RCW Chapter 49.17 and WAC 296-155-650 and -

655. The Contractor is responsible for providing the competent person and registered professional engineer required by WAC 296-155-650 and -655.

14. Prevailing Wages.

Contractors shall pay its employees, and shall require its subcontractors to pay their employees, prevailing wages as required by and in compliance with applicable state and/or federal law and/or regulations, including but not limited to RCW Chapter 39.12 and RCW Chapter 49.28. Prior to final payment under this Contract, Contractor shall certify in writing that prevailing wages have been paid for all work on the Project as required and in accordance with applicable law and/or regulations.

15. Taxes and Assessments.

The Contractor shall be solely responsible for compensating its employees, agents, and/or subcontractors and for paying all related taxes, deductions, and assessments, including, but not limited to, applicable use and sales taxes, federal income tax, FICA, social security tax, assessments for unemployment and industrial injury, and other deductions from income which may be required by law or assessed against either party as a result of this Contract.

16. Nondiscrimination Provision.

During the performance of this Contract, the Contractor shall comply with all applicable equal opportunity laws and/or regulations and shall not discriminate on the basis of race, age, color, sex, sexual orientation, religion, national origin, creed, veteran status, marital status, political affiliation, or the presence of any sensory, mental or physical handicap. This provision shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, selection for training, and the provision of work and services under this Contract. The Contractor further agrees to maintain notices, posted in conspicuous places, setting forth the provisions of this nondiscrimination clause. The Contractor understands that violation of this provision shall be cause for immediate termination of this Contract and the Contractor may be barred from performing any services or work for the City in the future unless the Contractor demonstrate to the satisfaction of the City that discriminatory practices have been eliminated and that recurrence of such discriminatory practices is unlikely.

17. The Americans with Disabilities Act.

The Contractor shall comply, and shall require its subcontractors to comply, with the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq. (ADA), and its implementing regulations, and Washington State's anti-discrimination law as contained in RCW Chapter 49.60 and its implementing regulations, with regard to the work and services provided pursuant to this Contract. The ADA provides comprehensive civil rights to individuals with disabilities in the

area of employment, public accommodations, public transportation, state and local government services, and telecommunications.

18. Compliance With Law.

The Contractors shall perform all work and services under and pursuant to this Contract in full compliance with any and all applicable laws, rules, and regulations adopted or promulgated by any governmental agency or regulatory body, whether federal, state, local, or otherwise.

19. Guarantee of Work.

a. The Contractor guarantees and warrants all of its work, materials, and equipment provided and utilized for this Project to be free from defects for a period of one (1) year from the date of final acceptance of the Project work. The Contractor shall remedy any defects in its Project work, and the materials, and equipment utilized in the Project and pay for any damages resulting therefrom which shall appear within a period of one (1) year from the date of final acceptance of the Project work unless a longer period is specified. The City will give notice of observed defects with reasonable promptness.

b. The guarantee/warranty period shall be suspended from the time a significant defect is first documented by the City until the work or equipment is repaired or replaced by the Contractor and accepted by the City. In the event that fewer than ninety (90) calendar days remain in the guarantee period after acceptance of such repair or replacement (after deducting the period of suspension above), the guarantee period shall be extended to allow for at least ninety (90) calendar days guarantee of the work from the date of acceptance of such repair or equipment.

c. The Contractor shall also provide the City with manufacturer's warranties for all components, materials and equipment installed as part of the Project.

20. Contractor's Risk of Loss.

It is understood that the whole of the work under this Contract is to be done at the Contractor's risk, and that he has familiarized himself with all existing conditions and other contingencies likely to affect the work, and has made his bid accordingly, and that he shall assume the responsibility and risk of all loss or damage to materials or work which may arise from any cause whatsoever prior to completion.

21. Indemnification and Hold Harmless.

a. The Contractor shall indemnify, defend and hold the City, its elected officials, agents, officers and/or employees harmless from and against any and all claims, demands, liabilities, losses, costs, damages or expenses of any nature whatsoever (including all costs and

attorneys' fees) to or by third parties arising from, resulting from or connected with the work and services performed or to be performed under this Contract by the Contractor and/or its directors, officers, agents, employees, consultants, and/or subcontractors to the fullest extent permitted by law and subject to the limitations provided below.

b. The Contractor's duty to indemnify the City shall not apply to liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the City or its elected officials, agents, officers and/or employees.

c. The Contractor's duty to indemnify the City for liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the concurrent negligence of (a) the City and/or its elected officials, agents, officers and/or employees, and (b) the Contractor and/or its directors, officers, agents, employees, consultants, and/or subcontractors, shall apply only to the extent of negligence of Contractor and/or its directors, officers, agents, employees, consultants, and/or subcontractors.

d. The Contractor specifically and expressly waives any immunity that may be granted it under the Washington State Industrial Insurance Act, Title 51 RCW, as provided in RCW 4.24.115. The indemnification obligation under this Contract shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable to or for any third party under workers compensation acts, disability benefits acts, or other employee benefits acts; provided the Contractor's waiver of immunity by the provisions of this paragraph extends only to claims against the Contractor by the City and does not include, or extend to, any claims by the Contractor's employees directly against Contractor. The obligations of Contractor under this subsection have been mutually negotiated by the parties hereto, and Contractor acknowledges that the City would not enter into this Contract without the waiver thereof of Contractor.

e. Nothing contained in this section or Contract shall be construed to create a liability or a right of indemnification by any third party.

f. The provisions of this section shall survive the expiration or termination of this Contract with respect to any event occurring prior to such expiration or termination.

22. Insurance.

The Contractor shall procure, and maintain for the duration of the Contract, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, their agents, representatives, employees or subcontractors. Failure by the Contractor to maintain the insurance as required shall constitute a material breach of contract upon which the City may, after giving five (5) working days notice to the Contractor to correct the breach, immediately terminate the Contract or at its discretion, procure or renew such insurance and pay any and all

premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Contractor from the City.

a. Minimum Scope of Insurance.

The Contractor shall obtain insurance of the types described below:

- i. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA Automobile 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
- ii. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop gap liability, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide the Aggregate Per Project Endorsement ISO form CG 25 03 11 85. There shall be no endorsement or modification of the Commercial General Liability insurance for liability arising from explosion, collapse or underground property damage. The City shall be named as an insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing equivalent coverage.
- iii. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
- iv. Required. Builders Risk insurance covering interests of the City, the Contractor, Subcontractors, and Sub-contractors in the work. Builders Risk insurance shall be on a all-risk policy form and shall insure against the perils of fire and extended coverage and physical loss or damage including flood and earthquake, theft, vandalism, malicious mischief, collapse, temporary buildings and debris removal. This Builders Risk insurance covering the work will have a deductible of \$5,000 for each occurrence, which will be the responsibility of the Contractor. Higher deductibles for floor and earthquake perils may be accepted by the City upon written request by the Contractor and written acceptance by the City. Any increased deductibles accepted by the City will remain the

responsibility of the Contractor. The Builders Risk insurance shall be maintained until final acceptance of the work by the City.

b. Minimum Amounts of Insurance.

The Contractor shall maintain the following insurance limits:

- i. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
- ii. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate and a \$2,000,000 products-completed operations aggregate limit.
- iii. Required. Builders Risk insurance shall be written in the amount of the completed value of the project with no coinsurance provisions.

c. Other Insurance Provisions.

The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability and Commercial General Liability insurance.

- i. The Contractor's insurance coverage shall be primary insurance with respect to the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be in excess of the Contractor's insurance and shall not contribute with it.
- d. Acceptability of Insurers.

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

e. Verification of Coverage.

The Contractor shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the Automobile Liability and Commercial General Liability insurance of the Contractor before commencement of the work. Throughout the term of this Contract, the Contractor shall provide the City with proof of insurance upon request by the City.

Required. Before any exposure to loss may occur, the Contractor shall file with the City a copy of the Builders Risk insurance policy that includes all applicable conditions, exclusions, definitions, terms and endorsements related to this Project.

f. Contractor's Insurance for Other Losses.

The Contractor shall assume full responsibility for all loss or damage from any cause whatsoever to any tools, Contractor's employee owned tools, machinery, equipment, or motor vehicles owned or rented by the Contractor, or the Contractor's agents, suppliers or subcontractors as well as to any temporary structures, scaffolding and protective fences.

g. Subcontractors.

The Contractor shall include all subcontractors as insured under its policies or shall furnish separate certifications and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the same insurance requirements as stated herein for the Contractor.

h. Waiver of Subrogation.

The Contractor and the City waive all rights against each other, any of their subcontractors, lower tier subcontractors, agents and employees, each of the other, for damages caused by fire or other perils to the extent covered by Builders Risk insurance or other property insurance obtained pursuant to the Insurance Requirements Section of this Contract or other property insurance applicable to the work. The policies shall provide such waivers by endorsement or otherwise.

i. Notice of Cancellation of Insurance.

In the event that the Contractor receives notice (written, electronic or otherwise) that any of the above required insurance coverage is being cancelled and/or terminated, the Contractor shall immediately (within forty-eight (48) hours) provide written notification of such cancellation/termination to the City.

23. Assignment and Subcontractors.

a. The Contractor shall not assign this Contract or any interest therein, nor any money due to or to become due hereunder, without first obtaining the written consent of the City.

b. The Contractor shall not subcontract any part of the services to be performed hereunder without first obtaining the consent of the City and complying with the provisions of this section.

c. In the event the Contractor does assign this Contract or employ any subcontractor, the Contractor agrees to bind in writing every assignee and subcontractor to the applicable terms and conditions of the Contract documents.

d. The Contractor shall, before commencing any work, notify the City in writing of the names of any proposed subcontractors. The Contractor shall not employ any subcontractor or other person or organization (including those who are to furnish the principal items or materials or equipment), whether initially or as a substitute, against whom the City may have reasonable objection. Each subcontractor or other person or organization shall be identified in writing to the City by the Contractor prior to the date this Contract is signed by the Contractor. Acceptance of any subcontractor or assignee by the City shall not constitute a waiver of any right of the City to reject defective work or work not in conformance with the contract documents. If the City, at any time, has reasonable objection to a subcontractor or assignee, the Contractor shall submit an acceptable substitute.

e. The Contractor shall be fully responsible for all acts and omissions of its assignees, subcontractors and of persons and organization directly or indirectly employed by it and of persons and organizations for whose acts any of them may be liable to the same extent that it is responsible for the acts and omissions of person directly employed by it.

f. The Contract does not and shall not create or be construed to create any relationship, contractual or otherwise, between the City and any subcontractor or assignee. Nothing in the Contract shall create any obligation on the part of the City to pay or to assure payment of any monies due any subcontractor or assignee.

24. Severability.

a. If a court of competent jurisdiction holds any part, term or provision of this Contract to be illegal or invalid, in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.

b. If any provision of this Contract is in direct conflict with any statutory provision of the State of Washington, that provision which may conflict shall be deemed inoperative and null and void insofar as it may conflict, and shall be deemed modified to conform to such statutory provision.

25. Integration and Supersession.

This Contract sets forth all of the terms, conditions, and Contracts of the parties relative to the Project, and supersedes any and all such former Contracts which are hereby declared terminated and of no further force and effect upon the execution and delivery hereof. There are no terms, conditions, or Contracts with respect thereto except as provided herein, and no amendment or modification of this Contract shall be effective unless reduced to writing and executed by the parties. In the event of any conflicts or inconsistencies between this Contract and the Declaration, the terms of this Contract shall control in all cases.

26. Non-Waiver.

A waiver by either party hereto of a breach of the other party hereto of any covenant or condition of this Contract shall not impair the right of the party not in default to avail itself of any subsequent breach thereof. Leniency, delay or failure of either party to insist upon strict performance of any Contract, covenant or condition of this Contract, or to exercise any right herein given in any one or more instances, shall not be construed as a waiver or relinquishment of any such Contract, covenant, condition or right.

27. Survival.

Any provision of this Contract which imposes an obligation after termination or expiration of this Contract shall survive the term or expiration of this Contract and shall be binding on the parties to this Contract.

28. Contract Representatives and Notices.

This Contract shall be administered for the City by the City's Contract Representative Scott Wicken, and shall be administered for the Contractor by the Contractor's Contract Representative John Mayer. Unless stated otherwise herein, all notices and demands shall be in writing and sent or hand-delivered to the parties at their addresses as follows:

To the City: Scott Wicken, Public Works Superintendent
City of Lake Stevens
Department of Public Works
1812 Main Street, P.O. Box 257
Lake Stevens, WA 98258-0257
425-334-1012

To Contractor: John Mayer
J & M Septic Installation, Inc.
P O Box 1979
Granite Falls, WA 98252
425-754-1204

or to such addresses as the parties may hereafter designate in writing. Notices and/or demands shall be sent by registered or certified mail, postage prepaid, or hand-delivered. Such notices shall be deemed effective when mailed or hand-delivered at the addresses specified above.

29. Third Parties.

The City and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide, any right or benefit, whether directly or indirectly or otherwise, to third persons.

30. Governing Law.

This Contract shall be governed by and construed in accordance with the laws of the State of Washington.

31. Venue.

The venue for any action to enforce or interpret this Contract shall lie in the Superior Court of Washington for Snohomish County, Washington.

32. Attorney Fees

Should either the City or the Contractor commence any legal action relating to the provisions of this Contract or the enforcement thereof, the prevailing party shall be awarded judgment for all costs of litigation including, but not limited to, costs, expert witnesses, and reasonable attorney fees.

33. Authority

The person executing this Agreement on behalf of Contractor represents and warrants that he or she has been fully authorized by Contractor to execute this Agreement on its behalf and to legally bind Contractor to all the terms, performances and provisions of this Agreement. The person executing this Contractor on behalf of the City represents and warrants that he or she has been fully authorized by the City to execute this Contractor on its behalf and to legally bind the City to all the terms, performances and provisions of this Contractor.

34. Counterparts.

This Contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Contract.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed the day and year first hereinabove written.

CITY OF LAKE STEVENS

CONTRACTOR

By: _____
Vern Little, Mayor

By: _____

Print Name: _____

Title: _____

Approved as to form:

Grant Weed, City Attorney

Acknowledgement of Waiver of Contractor's Industrial Insurance Immunity:

City Signature

Contractor Signature

J & M Septic Installation, Inc.
 PO Box 1979
 Granite Falls, WA 98252

RECEIVED
 JAN 22 2013
 CITY OF LAKE STEVENS

Invoice

Date	Invoice #
1/20/2013	6795

Bill To
City of Lake Stevens

Terms	Project
Due on receipt	

Description	Hrs/Yds/Ton	Rate	Total
1/11/13 at 1201 E Lakeshore Dr., Lake Stevens Removal and clean up of mudslide on lot-14 hours for machine time. Loaded and hauled away 120 yards of mud. 13 hours of trucking with trailer to Granite Falls dump site. Dump fees and mobilization fees. Materials-2 rolls of visqueen.		5,665.47	5,665.47T

Thank you for your business.	Subtotal	\$5,665.47
	Sales Tax (8.6%)	\$487.23
	Balance Due	\$6,152.70



LAKE STEVENS CITY COUNCIL
STAFF REPORT

Council Agenda Date: 28 January 2013

Subject: 20th Street NE Sidewalk Centennial Trail Connectivity – Award of Survey and Design

Contact Mick Monken **Budget Impact:** \$30,000
Person/Department: Public Works

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL: Award the survey services and design and authorize the Mayor to sign the contract for the 20th Street NE Sidewalk Centennial Trail Connectivity with Cascade Surveying & Engineering, Inc for an amount not to exceed \$28,000 and authorize a \$2,000 management reserve.

SUMMARY/BACKGROUND: The City had applied for and was awarded a State grant through the Transportation Improvement Board (TIB) in late 2012 to design and construction a sidewalk connection on 20th Street NE between Main Street and the Centennial Trail. Over most of this length there is existing sidewalk/designated walkway and the scope of this project is to fill in the missing sections to provide a contiguous designated sidewalk along the entire south side of 20th Street NE. The project budget is \$273,000 with \$30,000 allocated to design. Grant dollars cover 75% of the project funds.

Staff had reviewed 4 firms for this project and selected Cascade Surveying & Engineering, Inc. All were qualified to perform the services. Due to the small scale of the project, Cascade was selected because their focus is on projects of this scale. A site visit was performed and a scope was prepared.

Once authorized, the Cascade is expected to begin survey work in February and a design in March. The City will be sending out notification to the residents along this roadway once the contract has been awarded. Construction is expected to occur in late spring/early summer.

APPLICABLE CITY POLICIES:

BUDGET IMPACT: Not to exceed \$30,000 (\$7,500 local and \$22,500 TIB grant). The total local match for this project is \$68,250 (including the \$7,500 for this phase) and is budgeted in the Sidewalk Capital Project fund. The approximate unallocated in the Sidewalk Capital Project fund is \$542,000.

ATTACHMENTS:

- ▶ Attachment A: Professional Service Agreement with Scope – Cascade Surveying & Engr. Inc.

ATTACHMENT A

**PROFESSIONAL SERVICES AGREEMENT BETWEEN
CITY OF LAKE STEVENS
AND Cascade Surveying & Engineering, Inc.
FOR
20TH STREET N.E. SIDEWALK CENTENNIAL TRAIL CONNECTIVITY**

THIS AGREEMENT, made and entered into in Snohomish County, Washington, by and between CITY OF LAKE STEVENS, hereinafter called the "City," and Cascade Surveying & Engineering, Inc., a Washington corporation, hereinafter called the "Consultant."

WHEREAS, the Consultant has represented, and by entering into this Agreement now represents, that the firm and all employees assigned to work on any City project are in full compliance with the statutes of the State of Washington governing activities to be performed and that all personnel to be assigned to the work required under this agreement are fully qualified and properly licensed to perform the work to which they will be assigned.

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performances contained herein below, the parties hereto agree as follows:

ARTICLE I. PURPOSE

The purpose of this agreement is to provide the City with consulting services to perform survey services for design, layout of a construction control centerline, and perform design services as described in Article II. The general terms and conditions of relationships between the City and the Consultant are specified in this agreement.

ARTICLE II. SCOPE OF WORK

The scope of work is set out in the attached Estimate of Professional Services for the 20th Street NE Sidewalk Centennial Trail Connectivity, hereinafter referred to as the "scope of services," **Exhibit A**. All services and materials necessary to accomplish the tasks outlined in **Exhibit A** shall be provided by the Consultant unless noted otherwise in the scope of services or this agreement.

ARTICLE III. OBLIGATIONS OF THE CONSULTANT

III.1 **MINOR CHANGES IN SCOPE.** The Consultant shall accept minor changes, amendments, or revision in the detail of the work as may be required by the City when such changes will not have any impact on the service costs or proposed delivery schedule. Extra work, if any, involving substantial changes and/or changes in cost or schedules will be addressed as follows:

Extra Work. The City may desire to have the Consultant perform work or render services in connection with each project in addition to or other than work provided for by the expressed intent of the scope of work in the scope of services. Such work will be considered as extra work and will be specified in a written supplement to the scope of services, to be signed by both parties, which will set forth the nature and the scope thereof. All proposals for extra work or services shall be prepared by the Consultant at no cost to the City. Work under a supplemental agreement shall not proceed until executed in writing by the parties.

III.2 WORK PRODUCT AND DOCUMENTS. The work product and all documents listed in the scope of services shall be furnished by the Consultant to the City, and upon completion of the work shall become the property of the City, except that the Consultant may retain one copy of the work product and documents for its records. The Consultant will be responsible for the accuracy of the work, even though the work has been accepted by the City.

In the event that the Consultant shall default on this agreement or in the event that this contract shall be terminated prior to its completion as herein provided, all work product of the Consultant, along with a summary of work done to date of default or termination, shall become the property of the City. Upon request, the Consultant shall tender the work product and summary to the City. Tender of said work product shall be a prerequisite to final payment under this contract. The summary of work done shall be prepared at no additional cost to the City.

Consultant will not be held liable for reuse of these documents or modifications thereof for any purpose other than those authorized under this Agreement without the written authorization of Consultant.

III.3 TIME OF PERFORMANCE. The Consultant shall be authorized to begin work under the terms of this agreement upon signing of both the scope of services and this agreement and shall complete the work within 60 calendar days, unless a mutual written agreement is signed to change the schedule. An extension of the time for completion may be given by the City due to conditions not expected or anticipated at the time of execution of this agreement.

III.4 NONASSIGNABLE. The services to be provided by the Consultant shall not be assigned or subcontracted without the express written consent of the City.

III.5 EMPLOYMENT. Any and all employees of the Consultant, while engaged in the performance of any work or services required by the Consultant under this agreement, shall be considered employees of the Consultant only and not of the City, and any and all claims that may or might arise under the Workman's Compensation Act on behalf of any said employees while so engaged, and any and all claims made by any third party as a consequence of any negligent act or omission on the part of the Consultant or its employees while so engaged in any of the work or services provided herein shall be the sole obligation of the Consultant.

III.6 INDEMNITY.

a. Consultant shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the negligence of the City.

b. Should a court of competent jurisdiction determine that this agreement is subject to RCW 4.24.115, then, in the event of liability for damaging arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Engineer and the City, its members, officers, employees and agents, the Engineer's liability to the City, by way of indemnification, shall be only to the extent of the Engineer's negligence.

c. The provisions of this section shall survive the expiration or termination of this agreement.

III.7 **INSURANCE.**

a. **Minimum Limits of Insurance.** The Consultant shall, before commencing work under this agreement, file with the City certificates of insurance coverage to be kept in force continuously during this agreement, and during all work performed pursuant to all short form agreements, in a form acceptable to the City. Said certificates shall name the City as an additional named insured with respect to all coverages except professional liability insurance. The minimum insurance requirements shall be as follows:

(1) Comprehensive General Liability. \$1,000,000 combined single limit per occurrence for bodily injury personal injury and property damage; \$2,000,000 general aggregate;

(2) Automobile Liability. \$300,000 combined single limit per accident for bodily injury and property damage;

(3) Workers' Compensation. Workers' compensation limits as required by the Workers' Compensation Act of Washington;

(4) Consultant's Errors and Omissions Liability. \$1,000,000 per occurrence and as an annual aggregate.

b. **Notice of Cancellation of Insurance.** In the event that the Consultant receives notice (written, electronic or otherwise) that any of the above required insurance coverage is being cancelled and/or terminated, the Consultant shall immediately (within forty-eight (48) hours) provide written notification of such cancellation/termination to the City.

c. **Acceptability of Insurers.** Insurance to be provided by Consultant shall be with a Bests rating of no less than A:VII, or if not rated by Bests, with minimum surpluses the equivalent of Bests' VII rating.

d. **Verification of Coverage.** In signing this agreement, the Consultant is acknowledging and representing that required insurance is active and current. Further, throughout the term of this agreement, the Consultant shall provide the City with proof of insurance upon request by the City.

III.8 DISCRIMINATION PROHIBITED AND COMPLIANCE WITH EQUAL OPPORTUNITY LEGISLATION. The Consultant agrees to comply with equal opportunity employment and not to discriminate against client, employee, or applicant for employment or for services because of race, creed, color, religion, national origin, marital status, sex, age or handicap except for a bona fide occupational qualification with regard, but not limited to, the following: employment upgrading; demotion or transfer; recruitment or any recruitment advertising; layoff or terminations; rates of pay or other forms of compensation; selection for training, rendition of services. The Consultant further agrees to maintain (as appropriate) notices, posted in conspicuous places, setting forth the provisions of this nondiscrimination clause. The Consultant understands and agrees that if it violates this nondiscrimination provision, this agreement may be terminated by the City, and further that the Consultant will be barred from performing any services for the City now or in the future, unless a showing is made satisfactory to the City that discriminatory practices have been terminated and that recurrence of such action is unlikely.

III.9 UNFAIR EMPLOYMENT PRACTICES. During the performance of this agreement, the Consultant agrees to comply with RCW 49.60.180, prohibiting unfair employment practices.

III.10 AFFIRMATIVE ACTION. Affirmative action shall be implemented by the Consultant to ensure that applicants for employment and all employees are treated without regard to race, creed, color, sex, age, marital status, national origin or the presence of any sensory, mental or physical handicap, unless based on a bona fide occupational qualification. The Consultant agrees to take affirmative action to ensure that all of its employees and agent adhere to this provision.

III.11 LEGAL RELATIONS. The Consultant shall comply with all federal, state and local laws and ordinances applicable to work to be done under this agreement. This contract shall be interpreted and construed in accordance with the laws of Washington. Venue for any action commenced relating to the interpretation, breach or enforcement of this agreement shall be in Snohomish County Superior Court.

III.12 INDEPENDENT CONTRACTOR. The Consultant's relation to the City shall at all times be as an independent contractor.

III.13 CONFLICTS OF INTEREST. While this is a non-exclusive agreement the Consultant agrees to and will notify the City of any potential conflicts of interest in Consultant's client base and will seek and obtain written permission from the City prior to providing services to third

parties where a conflict of interest is apparent. If a conflict is irreconcilable, the City reserves the right to terminate this agreement.

III.14 **CITY CONFIDENCES.** The Consultant agrees to and will keep in strict confidence, and will not disclose, communicate or advertise to third parties without specific prior written consent from the City in each instance, the confidences of the City or any information regarding the City or services provided to the City.

ARTICLE IV. OBLIGATIONS OF THE CITY

IV.1 **PAYMENTS.** The Consultant shall be paid by the City for completed work for services rendered under this agreement and as detailed in the scope of services as provided hereinafter. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment and incidentals necessary to complete the work. Payment shall be on a time and expense basis, provided, however, in no event shall total payment under this agreement exceed Twenty-Eight Thousand dollars and no cents (\$28,000). In the event the City elects to expand the scope of services from that set forth in **Exhibit A**, the City shall pay Consultant an additional amount based on a time and expense basis, based upon Consultant's current schedule of hourly rates.

a. Invoices shall be submitted by the Consultant to the City for payment pursuant to the terms of the scope of services. The invoice will state the time expended, the hourly rate, a detailed description of the work performed, and the expenses incurred during the preceding month. Invoices must be submitted by the 20th day of the month to be paid by the 15th day of the next calendar month.

b. The City will pay timely submitted and approved invoices received before the 20th of each month within thirty (30) days of receipt.

IV.2 **CITY APPROVAL.** Notwithstanding the Consultant's status as an independent contractor, results of the work performed pursuant to this contract must meet the approval of the City, which shall not be unreasonably withheld if work has been completed in compliance with the scope of work and City requirements.

ARTICLE V. GENERAL

V.1 **NOTICES.** Notices to the City shall be sent to the following address:

CITY OF LAKE STEVENS
C/O Ed Gano, P.E.
PO Box 257
LAKE STEVENS, WA 98258-0257

Notices to the Consultant shall be sent to the following address:

Randall L. Devoir
Cascade Surveying & Engineering, Inc.
P.O.Box 326
Arlington, WA 98223

Receipt of any notice shall be deemed effective three (3) days after deposit of written notice in the U.S. mail with proper postage and address.

V.2 **TERMINATION.** The right is reserved by the City to terminate this agreement in whole or in part at any time upon ten (10) days' written notice to the Consultant.

If this agreement is terminated in its entirety by the City for its convenience, a final payment shall be made to the Consultant which, when added to any payments previously made, shall total the actual costs plus the same percentage of the fixed fee as the work completed at the time of termination applied to the total work required for the project.

V.3 **DISPUTES.** The parties agree that, following reasonable attempts at negotiation and compromise, any unresolved dispute arising under this contract may be resolved by a mutually agreed-upon alternative dispute resolution of arbitration or mediation.

V.4 **NONWAIVER.** Waiver by the City of any provision of this agreement or any time limitation provided for in this agreement shall not constitute a waiver of any other provision.

DATED this _____ day of _____, 2013.

CITY OF LAKE STEVENS

_____, CONSULTANT

By _____
VERN LITTLE, MAYOR

By _____

APPROVED AS TO FORM:

GRANT K. WEED, CITY ATTORNEY

EXHIBIT A

SCOPE OF WORK FOR 20TH STREET N.E. SIDEWALK CENTENNIAL TRAIL CONNECTIVITY

PROJECT INTENT: TO PROVIDE PEDESTRIAN SIDEWALK CONNECTIVITY FROM THE CENTENNIAL TRAIL TO MAIN STREET.

THE PROJECT WILL PROVIDE A CONCRETE SIDEWALK CONNECTION WITH CURB, GUTTER, AND DRAINAGE THAT WILL PROVIDE FOR A CONTIGUOUS PEDESTRIAN FACILITY ALONG THE SOUTH SIDE OF 20TH STREET NE BETWEEN THE CENTENNIAL TRAIL TO MAIN STREET. THERE ARE SEGMENTS OF EXISTING SIDEWALKS AND PEDESTRIAN PATHWAY THAT ARE TO REMAIN AND THIS PROJECT WILL DESIGN THE SIDEWALK SECTION TO FILL IN THE MISSING SECTION OF SIDEWALKS AND TO BRING EXISTING ADA SIDEWALK RAMPS INCLUDED IN THIS SECTION OF 20TH STREET NE INTO COMPLIANCE. WORK WILL IDENTIFY ANY NEEDED UTILITY RELOCATIONS.

STANDARDS: CITY OF LAKE STEVENS EDDS, CURRENT WSDOT DESIGN MANUAL, WSDOT STANDARDS SPECIFICATIONS FOR ROAD, BRIDGE, AND MUNICIPAL CONSTRUCTION 2012, CURRENT MUTCD.

Contractor explicitly agrees that it will comply with Section 1-07.8 of the Standard Specifications for Road, Bridge, and Municipal Construction - High Visibility Apparel.

1. Research and review surveys, legal descriptions, utility plans, drainage plans, and Centennial Trail plans.
2. Inspect and photograph existing and proposed sidewalk ramps.
3. Survey crew to locate right-of-way centerline, edge of asphalt, approximate property lines, fences, trees, utilities, mail boxes and utility poles. Centerline of right-of-way will be marked in the field with PK type nails at 50 feet on center and painted with Station designations.
4. Drafting of worksheet / base map showing the above.
5. Meet with city to review design and options.
6. Prepare construction plans to consist of:
 1. Cover sheet
 2. General notes / specifications
 3. Existing conditions survey
 - 4, 5. S.W.P.P.P.
 - 6-8. Plan and profile sheets
 9. Details (including traffic control)
 10. Channelization
 11. Landscaping (minimal)

Reports:

S.W.P.P.P.
Drainage

7. Assist the city with:

1. S.E.P.A. documents
2. Neighborhood meetings
3. Contract documents
4. Permitting

The estimated cost for the above is \$26,200⁰⁰

Not included in the above estimated cost are geotechnical services, street lighting design, underground locates and fees for title research. We would propose to prepare the above for a not to exceed cost of \$28,000⁰⁰ with monthly billings based on the attached Fee Schedule.

Tasks Performed by City

1. Preparation and completion of process for environmental services including SEPA.
2. Obtain required permits to perform the construction project.
3. Perform Red, Green, Blue review of prepared plan sets.
4. Assemble, print, and perform advertisement of Bid Document sets.
5. Perform public outreach with residents.



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Council Agenda Date: January 28, 2012

Subject: Shoreline Master Program Update – Briefing on Ecology’s Conditional Approval (LS2009-11)

Contact Person/Department: Becky Ableman/Karen Watkins **Budget Impact:** Unknown

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL: Staff will brief the Council on the Ecology’s Conditional Approval Letter and proposed schedule. Action requested of Council is to:

- (1) Approve draft schedule;
- (2) Authorize the Mayor to sign the request for extension letter; and
- (3) Direct staff on initial analysis.

Staff will return on February 11 and/or 25 with more details on Ecology’s required changes.

SUMMARY: The City Council approved a Shoreline Master Program on November 28, 2011 (Ordinance No. 856). As required by the SMP grant, the SMP Amendment Package was sent to Ecology with completion determined by Ecology on February 27, 2012. Ecology held a comment period on the Lake Stevens SMP April 19-May 21, 2012 and held a public hearing on April 19, 2012 at the Lake Stevens School District Educational Center. Ecology summarized public hearing comments and requested the City respond to the comments. On September 10, 2012, the City submitted to Ecology written response to issues raised during the state comment period. Consistent with Chapter 90.58 RCW, the City’s proposed SMP amendments have been reviewed with consistency with the policy and approval criteria of the Shoreline Management Act. The Conditional Approval letter is Ecology’s response to the review and includes Findings and Conclusions, Ecology required changes, suggested changes, and a responsiveness summary to public comments.

BACKGROUND: Staff received draft required changes from Ecology in late 2012 to review. The draft was shared with the SMP Council Subcommittee on December 10, 2012. The final letter, dated January 4, 2013, was received by Mayor Little on January 14, 2013 (*Attachment 1*). The letter was shared with full Council by email on January 16 and placed on the website with notice to the SMP Interested Parties Email List on January 17, 2012. In addition, staff sent postcards on January 25 to approximately 50 residents who attended SMP meetings, but have not requested to be on the Interested Parties list.

Staff has prepared a letter requesting an extension to Ecology’s 30-day response requirement to the Conditional Approval Letter. This letter requests an extension to April 30, 2013 to allow for Council discussion and a Public Process before developing a response to Ecology (*Attachment 2*). The April deadline is predicated on a draft schedule (*Attachment 3*).

DISCUSSION: The City received 10 required changes from Ecology and one suggested change, which was from City Staff. Some of these changes were discussed in an email from Ecology received before Council’s final approval of the SMP (*Attachment 4*). As a comparison, Snohomish County received 19

required changes and the City of Sammamish received 77 required changes. The following provides information on issues and process.

Proposed Schedule. *Attachment 3* proposes a schedule for review of Ecology's Conditional Approval and preparing a response. It includes a public process for participation by residents and interested parties. The schedule proposes March 11 for an Open House before the Council Meeting and for the public to come forward at the beginning of the Council Meeting to provide up to 3 minutes of public input. If Council gets feedback that requires additional discussion, there is a placeholder for the SMP Council Subcommittee to meet with interested parties, if requested, in an open forum between March 12 and 22.

Staff Analysis of Ecology's Required Changes. Staff prepared a response to Ecology's Required Changes in their Attachment B for discussion with the SMP Council Subcommittee (*Attachment 5*). The response includes where the original language came from and how it may affect lakeshore property or implementation of the SMP.

SMP Council Subcommittee. A few questions and comments came up at the Subcommittee Meeting on December 10, 2012. Staff researched the issues and provide the following information:

- The Watershed Company has successfully completed SMP Updates for Past Clients (Covington, Darrington, Kent, Lake Forest Park, Maple Valley, Marysville, Monroe, SeaTac, and Stanwood). Their Current Clients include Chelan County, San Juan County, Skagit County, and cities of Anacortes, Arlington, Beaux Arts, Bellevue, Bonney Lake, Bothell, Brier, Buckley, Carnation, DuPont, Hunts Point, Kirkland, Lake Stevens, Medina, North Bend, and Yarrow Point.
- The following local cities have completed the SMP Update Process: Arlington, Lynnwood, Marysville, Monroe, Mukilteo, Snohomish County and Sultan.
- Local cities in the SMP Update Process include: Bothell (Ecology Review), Edmonds (Planning Board Recommendation), Gold Bar, Mountlake Terrace, Snohomish, and Stanwood. The City of Everett does not have to complete the update by 2014.

Appeal of an SMP Update. Under the Shoreline Management Act, all concerned parties have 60 days to appeal Ecology's decision regarding an updated SMP to the Growth Management Hearings Board. Ecology would defend the plan with the City as a co-defendant, except in the case the City is one of the appellants.

Very few appeals of SMP Updates have been attempted. *Attachment 6* is the 2009 Growth Management Hearings Board for Western Washington's Digest of cases related to shorelines. Two appeals are summarized below:

- Yakima County's SMP Update was appealed by Tribes with three of four protection issues defended by Ecology and only one issue, related to surface mining, were remanded back to Ecology and the County.
- Whatcom County's SMP Update by citizen group claiming "regulations contained in the SMP constitute a direct or indirect tax, fee, or charge on development in violation of RCW 82.02.020". The Supreme Court of the State of Washington concluded, "Department of Ecology retains control over the final contents and approval of SMPs. Therefore, SMP regulations are the product of state action and are not subject to RCW 82.02.020".

During research on the potential for appeal, Staff found the following statement from the Growth Management Hearings Board website (underline added as it relates to Lake Stevens):

If the city or county action concerns a Shoreline Master Program, the Board's review must be based on the requirements and policy of the SMA, the SMP Guidelines codified at WAC Chapter 173-26, and the GMA internal consistency requirement for comprehensive plans and development regulations, or SEPA compliance. However, if the appeal concerns a Shoreline of Statewide Significance, the Board may not consider GMA internal consistency or SEPA compliance – only SMA requirements, policy and guidelines – and must uphold the Department of Ecology's approval or denial of the SMP unless the Board finds clear and convincing evidence that Ecology's decision is inconsistent with SMA policy and guidelines. (RCW 90.58.190(2)(c))
From: "Practicing Before the Growth Management Hearings Board, March 2012"

Because Ecology reviews adopted SMP Updates to determine consistency with SMA policy and guidelines to determine required changes, it would be very difficult to prove Ecology's decision is inconsistent with SMP policy and guidelines. In fact, page 3 of Ecology's Attachment A states "The proposed amendment has been reviewed for consistency with the policy of RCW 90.58.020 and the approval criteria of RCW 90.58.090(3), (4) and (5)." This is probably why very few SMP Updates are appealed.

In order to appeal Ecology's required changes, such as the 4-foot wide dock in the first 30 feet from shore, additional technical studies would be required plus attorney costs for an approximately 180 day appeal process (*Attachment 7*). In addition, Ecology has already approved the same width on all lakes including Lake Stevens in the Snohomish County SMP and has stated that it is the Ecology's policy set by the Olympia Office to require the 4-foot dock width in the first 30 feet in all future SMP Updates. Ecology has biological studies to support the 4-foot width requirement in the first 30 feet; these studies would have to be proven incorrect to get the 4-foot width requirement changed.

FUTURE DISCUSSIONS: Council will need to determine if staff and/or consultants should complete additional analysis before drafting alternative proposals and responding to Ecology's Conditional Approval.

APPLICABLE CITY POLICIES: The State requires all cities to update their Shoreline Master Programs (SMP) on a specific schedule. The City's current SMP was adopted in 1974.

BUDGET IMPACT: The City received a two year, \$60,000 Shoreline Master Program Update grant from the Washington Department of Ecology for consultants. This funding was spent by 2011. Depending on additional technical analysis, additional funding may be required for consultant time.

ATTACHMENTS:

- 1 – Ecology's Conditional Approval Letter dated January 4, 2013
- 2 – Draft Letter to Ecology Requesting Response Extension to April 30, 2013
- 3 – Draft Schedule for Response to Ecology
- 4 – Email from Ecology dated 11/21/11 Regarding Comments on SMP
- 5 – Staff Response to Ecology's Required Changes
- 6 – Digest of Shoreline Cases to 2009 for Western Washington Growth Management

Hearings Board
7 – Growth Management Hearings Board 180-Day Appeal Process



ATTACHMENT 1

COPY

RECEIVED
JAN 14 2013
CITY OF LAKE STEVENS

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000

711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

January 4, 2013

The Honorable Vern Little
City of Lake Stevens
1812 Main Street
Lake Stevens, WA 98258-0257

**RE: City of Lake Stevens Comprehensive Shoreline Master Program Update -
Conditional Approval, Ordinance No. 856**

Dear Mayor Little:

I would like to take this opportunity to commend the city of Lake Stevens (City) for its efforts in developing the proposed comprehensive Shoreline Master Program (SMP) update. It is obvious that a significant effort was invested in this update by your staff and engaged community of stakeholders. The SMP will provide a framework to guide development and restoration in the City's shoreline along Little Pilchuck Creek, Catherine Creek and Lake Stevens. The Washington State Department of Ecology (Ecology) applauds the City's "pre-designation" of anticipated future annexation areas. This improves predictability for all concerned regarding future incorporation of these areas.

As we have already discussed with your staff, Ecology has identified specific changes necessary to make the proposal approvable. These changes are detailed in Attachment B. Suggested changes are also included in Attachment C. Ecology's findings and conclusions related to the City's proposed SMP update are contained in Attachment A.

Pursuant to RCW 90.58.090 (2)(e) at this point the City may:

- Agree to the proposed changes, or
- Submit an alternative proposal. Ecology will then review the alternative(s) submitted for consistency with the purpose and intent of the changes originally submitted by Ecology and with the Shoreline Management Act.

Final Ecology approval will occur when the City and Ecology agree on language that meets statutory and Guidelines requirements.

Please provide your written response within 30 days to the Director's Office at the following address:

WA State Department of Ecology
Attention: Director's Office
PO Box 47600
Olympia, WA 98504-6700

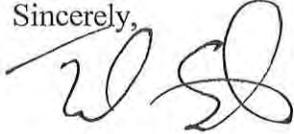


Honorable Vern Little
January 4, 2012
Page 2

Ecology appreciates the dedicated work that you, the city council, Planning & Community Department staff, and the planning commission have put into the Shoreline Master Program update.

Thank you again for your efforts. We look forward to concluding the SMP update process in the near future. If you have any questions or would like to discuss the changes identified by Ecology, please contact our Regional Planner, Joe Burcar, at Joe.Burcar@ecy.wa.gov or (425) 649-7145.

Sincerely,



Ted Sturdevant
Director

Enclosures (3)

By Certified Mail [7012 1010 0003 3028 2600]

cc: Rebecca Ableman, City of Lake Stevens
Karen Watkins, City of Lake Stevens
Joe Burcar, Ecology
Peter Skowlund, Ecology
Geoff Tallent, Ecology

ATTACHMENT A: FINDINGS AND CONCLUSIONS -
COMPREHENSIVE UPDATE TO THE CITY OF LAKE STEVENS SHORELINE MASTER PROGRAM

SMP Submittal February 27th, 2012¹, Ordinance No. 856
Prepared by Joe Burcar, on October 23rd, 2012

BRIEF DESCRIPTION OF PROPOSED AMENDMENTS:

The City of Lake Stevens (City) submitted to Ecology a comprehensive amendment to their Shoreline Master Program (SMP) to comply with the Shoreline Management Act (SMA) at RCW 90.58 and the SMP Guidelines requirements at WAC 173-26 (Part Three). The updated master program submittal includes locally tailored shoreline management: policies, regulations, environment designation maps, administrative provisions, and integration of applicable sections of the City's Critical Areas Ordinance (Ordinance No. 741 effective May 8, 2007 and Ordinance No. 773 effective April 21, 2008) as provided in "Appendix B" of the updated SMP.

FINDINGS OF FACT

NEED FOR AMENDMENT: The City is required by RCW 90.58.080 to develop and submit an updated Shoreline Master Program (SMP) to Ecology for review prior to December 1, 2011. The amendment is also necessary for the City to ensure compliance with the planning and procedural requirements of the SMP Guidelines contained in WAC 173-26 and 27. The updated SMP is intended to replace the City's existing SMP, which was adopted in 1974 and has not been amended or comprehensively updated since the original adoption (The Watershed Company and Makers, 2010). The SMP update is necessary to address land use changes that have occurred along the City's shorelines over the past 30-plus years and to provide consistency between the updated SMP and the environmental protection and land use management policies/practices provided by the City's Critical Areas Ordinance, Comprehensive Plan, Flood Management Plan and Zoning Ordinance.

As a part of the City's local notice related to the SMP-update, the intent of the update is described as follows:

The SMP has been updated to meet State requirements to protect the ecological functions of Lake Stevens and associated wetlands and streams. The SMP is based on State guidelines and comments received from a Citizen Advisory Committee, public open houses, public comments to the Planning Commission and City Council, and comments from State Agencies.

SMP PROVISIONS TO BE CHANGED BY THE AMENDMENT AS PROPOSED: This comprehensive SMP update is intended to entirely replace the City's existing SMP. The updated SMP increases shoreline jurisdiction to cover areas annexed by the City since adoption of the original SMP and will also "pre-designate" shorelines throughout the City's Urban Growth Area (UGA) as depicted in Figure 14 of the City's Shoreline Analysis Report (The Watershed Company and Makers, 2010). As a result, this SMP will now apply to approximately 9.2 linear miles of lake, river and associated wetlands.

¹ Ecology received the City's submittal package on December 29th, 2011, for which additional materials were requested from the City and verified as a complete submittal on February 27, 2012 pursuant to WAC 173-26-110.

The following table and Figure 14 from the City’s Shoreline Analysis Report (The Watershed Company and Makers, 2010) provide a description of each of the *Shoreline Assessment Units* analyzed by the City, considering the type of shoreline, length (linear feet) and area (acres) of shoreline segment, Land-use (general > 5%), and distinction between segments located within existing City limits or within the UGA.

City of Lake Stevens – Shoreline Assessment Units						
	Lake Stevens	Lake Stevens UGA	Lake Stevens Assoc. Wetland	Catherine Creek	Catherine Creek UGA	Little Pilchuck Creek UGA
Shoreline Type	Lake > 1000-acres	Lake > 1000-acres	Assoc. Wetland	River > 20-cfs	River > 20-cfs	River > 20-cfs
Length (Area)	29,818 (144.4)	7,557 (39.3)	(94.5)	3,212 (30.4)	2,165 (19.9)	3,353 (33.6)
Land-use	Residential (91%) Public (5%)	Residential	Residential	Residential (75%) Public/Light Industrial (14%)	Residential	Residential (47%) Industrial (33%) Public (18%)
City or UGA	Within City	UGA	Within City	Within City	UGA	UGA

Table Note: See “Table 2” in the *City’s Inventory Analysis Report* (The Watershed Company and Makers, 2010) for additional details related to characteristics of these Shoreline Assessment Units.

AMENDMENT HISTORY, REVIEW PROCESS: The City initiated the comprehensive SMP update consistent with the scope of work described within *SMA Grant No. G10000027*. The grant provided \$60,000 in state funding allocated to the City between July 1st, 2009 and June 30th, 2011. Throughout this time period the City provided Ecology with quarterly progress reports, deliverables and submitted payment requests for work completed consistent with the grant agreement. The City submitted their final payment request on July 7, 2011, requesting the balance of grant funding. However, the City was not yet prepared to locally adopt the updated SMP at this time, thus the City also requested a ‘no-cost’ extension to their grant agreement to provide additional time (through December 2011) to locally adopt the updated SMP.

As part of this effort, the City prepared an inventory of shoreline features, characterizing shoreline conditions throughout the City’s jurisdictional area (The Watershed Company and Makers, 2010). Based on this *Inventory/Characterization* report, the City then prepared shoreline environment designations, corresponding policies and regulations as part of a *Draft SMP*. Finally, the City prepared a *Restoration Plan* (The Watershed Company and Makers, 2011a), *Cumulative Impact Assessment* (The Watershed Company and Makers, 2011c), and a *No Net Loss Report* (The Watershed Company and Makers, 2011b) to analyze potential impacts resulting from anticipated future development based on implementation of the proposed SMP policies and regulations. As specified in the SMP grant agreement awarded to the City, the *Cumulative Impact Assessment* and *No Net Loss Report* are intended to support a final conclusion related to the updated programs consistency with applicable standards from the SMP-Guidelines (WAC 173-26), including demonstration of consistency with the No Net Loss of Shoreline Ecological Function requirement of this update.

The record shows that the City established a Citizen Advisory committee that held six meetings during the initial stages of the SMP update from March to December 2010. City staff also hosted three public workshops held on; April 15, 2010 (Open House #1), June 24, 2010 (Open

House #2), and November 18, 2010 (Open House #3). The City initiated local adoption of the updated SMP with a Planning Commission meeting on April 4, 2011 and Public Hearing on May 4, 2011. City Council Public Hearings related to the SMP-update were held on May 23rd and June 13, 2011. Affidavits of publication provided by the City indicate that the City provided notice to interested parties and the general public for all workshops and Public Hearings associated with this SMP update.

With passage of Ordinance #856, on November 28, 2011, the City Council authorized staff to forward the proposed amendments to Ecology for review and approval.

The locally approved SMP amendment package was received by Ecology and verified as complete on February 27, 2012. Notice of the state comment period was distributed on April 10, 2012 to state interested parties as well as local interested parties identified by the City in compliance with the requirements of WAC 173-26-120 (2). The state comment period began on April 19, 2012 and continued through May 21, 2012. On April 19, 2012, Ecology held a public hearing at the Lake Stevens School District Education Learning Center² to solicit input on the proposed amendments. Notice of the hearing, including a description of the proposed amendment and the authority under which the action is proposed, the times and locations of the hearing and the manner in which interested persons may obtain copies and present their views was published in the April 10, 2012 edition of the *Everett Herald Newspaper*, the City's official newspaper of record.

During the comment period, a total of 11 individuals or organizations provided either formal testimony at the public hearing, or submitted written comments on the proposed amendment to Ecology. Ecology summarized and then provided the oral and written comments received to the City for response on June 26, 2012. On September 10, 2012, the City submitted to Ecology written response to issues raised during the state comment period (Attachment D).

CONSISTENCY WITH CHAPTER 90.58 RCW: The proposed amendment has been reviewed for consistency with the policy of RCW 90.58.020 and the approval criteria of RCW 90.58.090(3), (4) and (5). The City has also provided evidence of its compliance with SMA procedural requirements for amending their SMP contained in RCW 90.58.090(1) and (2).

CONSISTENCY WITH “APPLICABLE GUIDELINES” (CHAPTER 173-26 WAC, PART III): The proposed amendment has been reviewed for compliance with the requirements of the applicable Shoreline Master Program Guidelines (WAC 173-26-171 through 251 and 173-26-020 definitions). This included review of a SMP Submittal Checklist, which was used throughout the City's approval process by the City and Ecology to identify consistency/inconsistency of SMP provisions with applicable SMP-Guideline requirements.

² The Lake Stevens School District Education Learning Center is the same facility used by the City for Planning Commission and City Council meetings and is located at 12309 – 22nd Street NE, Lake Stevens, WA 98258.

CONSISTENCY WITH SEPA REQUIREMENTS: The City submitted evidence of SEPA compliance. The City published notice for a Determination of Non-Significance (DNS) for the proposed SMP amendment on April 15, 2011. As a part of the DNS notice the general public and interested parties were provided an opportunity to comment within 14-days of issuance of the DNS or SEPA-addendum. Ecology did not provide comment to the City on the DNS.

OTHER STUDIES OR ANALYSES SUPPORTING THE SMP UPDATE: In addition to multiple drafts of the updated SMP (Policies & Regulations), Ecology reviewed the following reports, studies, map portfolios and data prepared by the City in support of the SMP amendment:

- *City of Lake Stevens Shoreline [Inventory] Analysis* dated February 25, 2010 (The Watershed Company and Makers, 2010);
- *City of Lake Stevens Shoreline Master Program - Restoration Plan* dated April, 2011 (The Watershed Company and Makers, 2011a);
- *City of Lake Stevens Shoreline Mater Program – No Net Loss Summary* dated November, 2011 (The Watershed Company and Makers, 2011b);
- *City of Lake Stevens Shoreline Master Program Update – Cumulative Impact Analysis* dated December, 2011 (The Watershed Company and Makers, 2011c); and
- Final SMP-checklist dated November 28, 2011.

SUMMARY OF ISSUES RAISED DURING THE PUBLIC REVIEW PROCESS: Ecology recorded testimony from five individuals at the Public Hearing (April 19, 2012) and received six written comments during the 32-day public comment period. As provided in Attachment D, all of the comments and testimony received by Ecology were summarized and then provided to the City for response. In general, the eleven comments spanned the following SMP topic areas:

- **Shoreline Modifications – Overwater Structures:** Comment focused primarily on SMP dimensional standards (i.e., dock length, width, etc.) related to redevelopment or new construction of a single-family pier/dock along the shoreline of Lake Stevens. Other comments focused on either aesthetics or ecological impact concerns associated with the City's covered moorage regulations.
- **Non-Conforming Uses and Existing Structures:** A number of comments submitted to Ecology, requested clarification as to how an existing structure may be affected by regulatory changes resulting from adoption of the updated SMP. Other comments provided additional questions or suggestions specific to redevelopment of existing uses.
- **SMP-Update Process:** Ecology received multiple comments requesting verification that materials submitted during the City's local update process also be included as part of formal record considered by Ecology.
- **Shoreline Modifications – Shoreline Stabilization:** Ecology received comments highlighting the City's good work in prioritizing stabilization preferences, but recommending that the City strengthen regulatory language in the SMP to ensure adequate mitigation is required for impacts related to future stabilization projects.

- **Shoreline Setback/Buffer/Vegetation Management and Mitigation:** Ecology received a variety of comments providing conflicting suggestions related to the adequacy of shoreline: setback, buffer, vegetation management and mitigation standards within the locally approved SMP.

SUMMARY OF ISSUES IDENTIFIED BY ECOLOGY AS RELEVANT TO IT'S DECISION: Based on review of the locally adopted SMP, supporting analysis and consideration of testimony and comments provided during Ecology's comment period/Public Hearing (See Attachment C), the following issues remain relevant to Ecology's final decision on this master program:

Shoreline of Statewide Significance: According to the City's Shoreline Analysis (The Watershed Company and Makers, 2010) Lake Stevens qualifies as a Shoreline of Statewide Significance (SSWS) pursuant to RCW 90.58.020, as the size of the lake³ is greater than 1,000-acres in size. As a SSWS, the SMP-Guidelines in WAC 173-26-251 require the "Department" (Ecology) to ensure, "...optimal implementation of the policy of this chapter to satisfy the statewide interest". Preservation of "statewide interests" through optimal implementation of updated master program, emphasize the need to: "Preserve resources for future generations"⁴, prioritize SMA "preferred uses" located within the SSWS, ensure long term protection of ecologic resources of "statewide importance"⁵ through consideration of cumulative impacts of permitted development to ensure No Net Loss of Shoreline Ecologic functions.

Considering that Lake Stevens is a SSWS and to recognize Ecology's obligation to ensure "optimal implementation" of SMP-Guideline policies and SMA objectives, the following area of the City of Lake Stevens SMP were reviewed in detail and in some cases lead to required changes as described in the rationale provided in Attachment B.

Shoreline Modification – Overwater Structures: WAC 173-26-231 (2) provides "General Principles" applicable to all Shoreline Modifications, first requiring demonstration of a need for a shoreline modifications consistent with the objectives of the SMA. If a Shoreline Modification is needed, then a jurisdiction is directed to apply development standards to ensure adverse effects (potentially) resulting from the development are avoided, if they cannot be avoided, then the impacts should be minimized in number and extent and appropriate compensatory mitigation is to be required in exchange for allowing the modification.

Pier/Dock - Dimensional Standards – WAC 173-26-231 (3) (b) state that pier/dock proposals associated with a single-family residence can be considered water-dependent (and therefore preferred), "...provided that it is designed and intended as a facility for access to

³ According to the City's Shoreline Inventory, Lake Stevens is reported to be 1,014-acres in size.

⁴ WAC 173-26-251(3)(b) state: "Prepare master program provisions on the basis of preserving the shorelines for future generations. For example, actions that would convert resources into irreversible uses or detrimentally alter natural conditions characteristic of shorelines of statewide significance should be severely limited. Where natural resources of statewide importance are being diminished over time, master programs shall include provisions to contribute to the restoration of those resources".

⁵ "statewide importance" may vary by jurisdiction, but examples in WAC 173-26-251(3)(d)(i) are: "anadromous fish habitat, forage fish spawning and rearing areas, shellfish beds, and unique environments"

watercraft and otherwise complies with the provisions of this section.” Further, the SMP-Guidelines require that pier/dock proposals be restricted to the minimum size necessary and be “...designed and constructed to avoid or, if that is not possible, to minimize and mitigate the impacts to ecological functions...” As described in the rationale provided in Attachment B (Items #1, 2, and 3) certain Pier/Dock provisions within the City’s locally approved SMP are determined to not be consistent with applicable SMP-Guideline standards, for which required changes are necessary to ensure compliance with “optimal implementation” under the SMA and Shoreline Modification/Impact-Mitigation/No-Net-Loss standards from the SMP-Guidelines.

Shoreline Protections and No Net Loss: *Ecology finds that the SMP-Guidelines require the City to consider potential cumulative impacts that could result from reasonably anticipated future development allowed (within shoreline jurisdiction) through implementation of applicable policies and regulations⁶ provided within the updated SMP. As part of this requirement the City is obligated to analyze and consider potential impacts to Shoreline ecological functions and then identify ways to avoid, minimize or mitigate these impacts consistent with Part three of the SMP Guidelines. This sequence of analysis is required to ensure consistency with the following provisions from the SMP Guidelines: “Governing Principles” (WAC 173-26-186), “Master Program Content” (WAC 173-26-191), and “Process to Prepare or Amend shoreline master programs” (WAC 173-26-201).*

As described in the rationale provided in Attachment B, the identified changes to the SMP are necessary to satisfy applicable SMP-Guideline requirements related to Shoreline Protection (WAC 173-26-201 (2) (c) and No Net Loss (WAC 173-26-186). These changes are consistent with local analysis provided by the City within their final Cumulative Impact Assessment (The Watershed Company and Makers, 2011c) prepared in support of the City’s updated SMP.

Therefore, Ecology finds that the proposed SMP as approved by the City under Ordinance # 856 is not consistent with the applicable SMP-Guideline requirements as specifically identified and analyzed in the rationale within Attachment B (Required Changes). However, Ecology also finds that the SMP can be amended to be compliant with the SMP-Guidelines through the City’s acceptance of “Required Changes” listed within Attachment B. Pursuant to WAC 173-26-120, Ecology identified “Suggested Changes” to the SMP as provided within Attachment C.

⁶ Cumulative Impacts resulting from anticipated future development as regulated by: General Master Program Provisions (WAC 173-26-221), Shoreline Modifications (WAC 173-26-231) and, Shoreline Uses (WAC 173-26-241).

CONCLUSIONS OF LAW

After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the City's SMP proposal, subject to and including Ecology's itemized analysis and rationale of required changes (provided in **Attachment B**), will be consistent with the policy and standards of RCW 90.58.020 and RCW 90.58.090 and the applicable SMP guidelines (WAC 173-26-171 through 251 and .020 definitions), upon the City's acceptance of the required changes (**Attachment B**). This includes a conclusion that the proposed SMP, including acceptance of the required changes (**Attachment B**), contains sufficient policies and regulations to assure that no net loss of shoreline ecological functions are anticipated to result from implementation of the new master program amendments (WAC 173-26-201 (2) (c)).

Ecology concludes that the proposed SMP amendment, subject to the required changes and rationale provided in **Attachment B** and recommended changes provided in **Attachment C**, satisfy the intent of the provision for no net loss of shoreline ecological functions pursuant to WAC 173-26-186 (8) and WAC 173-26-201 (2) (c).

Ecology concludes that the City of Lake Stevens choose not to exercise its option pursuant to RCW 90.58.030 (2) (f) (ii) to increase shoreline jurisdiction to include land necessary for buffers for critical areas located within shorelines of the state. Therefore, as required by RCW 36.70A.480 (6), for those designated critical areas with buffers that extend beyond SMA jurisdiction, the critical area and its associated buffer shall continue to be regulated by the City's critical areas ordinance. In such cases, the updated SMP shall also continue to apply to the designated critical area, but not the portion of the buffer area that lies outside of SMA jurisdiction. All remaining designated critical areas (with buffers NOT extending beyond SMA jurisdiction) and their buffer areas shall be regulated solely by the SMP.

Ecology concludes that the City of Lake Stevens have complied with applicable requirements from WAC 173-26-150 and 173-26-201 to allow for predesignation for shoreline areas within the City's Urban Growth Area (Figure 14 - The Watershed Company and Makers, 2010). Therefore, the shoreline designations and applicable policies and regulations provided for within this master program will apply to these areas (without the need to amend the master program) upon completion of annexation by the City.

Ecology concludes that those SMP segments relating to shorelines of statewide significance provide for the optimum implementation of Shoreline Management Act policy (RCW 90.58.090 (5)).

Ecology concludes that the City of Lake Stevens have complied with the requirements of RCW 90.58.100 regarding the SMP amendment process and contents.

Ecology concludes that the City of Lake Stevens have complied with the requirements of RCW 90.58.130 and WAC 173-26-090 regarding public and agency involvement in the SMP amendment process.

Ecology concludes that the City of Lake Stevens have complied with the purpose and intent of the local amendment process requirements contained in WAC 173-26-100, including conducting open houses and public hearings, notice, consultation with parties of interest and solicitation of comments from tribes, government agencies and Ecology.

Ecology concludes that the City of Lake Stevens have complied with requirements of Chapter 43.21C RCW, the State Environmental Policy Act.

ATTACHMENT A – FINDINGS AND CONCLUSIONS
PAGE 8

Ecology concludes that the City of Lake Stevens SMP amendment submittal to Ecology was complete pursuant to the requirements of WAC 173-26-110 and WAC 173-26-201 (3) (a) and (h) requiring a SMP Submittal Checklist.

Ecology concludes that it has complied with the procedural requirements for state review and approval of shoreline master program amendments as set forth in WAC 173-26-120.

DECISION AND EFFECTIVE DATE

Based on the preceding, Ecology has determined the proposed amendments are consistent with the policies of the Shoreline Management Act, the applicable guidelines and implementing rules, once changes set forth in **Attachment B** are accepted by the City. Ecology's approval of the proposed amendment with required changes will become effective 14-days after the date at which Ecology receives written notice that the City has agreed to the required changes.

As provided in RCW 90.58.090 (2) (e) (ii) the City may choose to submit an alternative to all or part of the changes required by Ecology. If Ecology determines that the alternative proposal is consistent with the purpose and intent of Ecology's original changes and with RCW 90.58, then the department shall approve the alternative proposal and that action shall be the final action on the amendment.

References:

Watershed & Makers 2010, The Watershed Company and Makers. February 2010. Shoreline Analysis Report for the City of Lake Stevens Shorelines: Lake Stevens, Catherine Creek, and Little Pilchuck Creek. Prepared for the City of Lake Stevens Planning and Community Development Department, Lake Stevens, WA.

Watershed & Makers 2011a, The Watershed Company and Makers. April 2011. Shoreline Restoration Plan for the City of Lake Stevens Shorelines: Lake Stevens, Catherine Creek, and Little Pilchuck Creek. Prepared for the City of Lake Stevens Planning and Community Development Department, Lake Stevens, WA.

Watershed & Makers 2011b, The Watershed Company and Makers. November 2011. No Net Loss Summary Report for the City of Lake Stevens Shorelines: Lake Stevens, Catherine Creek, and Little Pilchuck Creek. Prepared for the City of Lake Stevens Planning and Community Development Department, Lake Stevens, WA.

Watershed & Makers 2011c, The Watershed Company and Makers. December 2011. Cumulative Impacts Analysis for the City of Lake Stevens Shorelines: Lake Stevens, Catherine Creek, and Little Pilchuck Creek. Prepared for the City of Lake Stevens Planning and Community Development Department, Lake Stevens, WA.

Department of Ecology. 2011. Shoreline Master Program Handbook; SMP Updates Piers, Docks and other structures. Accessed at:
http://www.ecy.wa.gov/programs/sea/shorelines/smp/handbook/pdf/Piers_docks_guidance_1-10-11.pdf

ATTACHMENTS

Attachment B - Ecology identification and rationale of Required Changes

Attachment C – Ecology Suggested Changes

Attachment D – Responsiveness Summary

Final SMP Checklist

ATTACHMENT 1

The following changes are required to comply with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III);

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [<u>underline-additions</u> ; striketrough-deletions]	ECOLOGY - DISCUSSION/RATIONALE
1	<p>Chapter 2 – Environment Designations Section B. Shoreline Environment Designation Maps</p>	<p>Shoreline Jurisdiction</p>	<p>The Shoreline Environment Designation Maps can be found in Appendix A. Pursuant to WAC 173-26-211, the maps illustrate the shoreline environment designations that apply to all shorelines of the state within the City of Lake Stevens’ jurisdiction. The lateral extent of the shoreline jurisdiction shall be determined for specific cases based on the location of the ordinary high water mark (OHWM), <u>effective</u> floodway, and presence of associated wetlands. The maps should be used in conjunction with the Environment Designation tables in Section C below. In the event of a mapping error, the City will rely upon the boundary descriptions and the criteria in Section C below.</p>	<p><i>The required change is necessary to ensure appropriate reference to the FEMA “Floodway” which may change as a function of FEMA’s issuance to updated FIRM maps.</i></p> <p><i>Note: the City provides reference in Chapter 3, Section B (Policies and Regulations), 5 (Flood Hazard Reductions), c. (Regulations), 1.b. to the “Flood Insurance Study for Snohomish County, Washington and incorporated areas” dated November 8, 1999.</i></p>
2	<p>Chapter 4 – Shoreline Modifications Section C.3.c Overwater Structure (OWS) Regulation (Pg. 56)</p>	<p>Pier/Dock Alternative Design</p>	<p>20. Alternative Design. The City shall approve new, replaced or additions to docks different from the standards below subject to Washington Department of Fish and Wildlife approval of an alternate project design of a width up to 6 feet for new docks or up to existing width on legally existing docks in the first 30 feet, <u>limited to the following features:</u> size of pilings, replacement area, and/or different decking requirements subject to a Hydraulic Permit Approval. With submittal of a building permit, the applicant shall provide documentation that the Washington Department of Fish and Wildlife has approved the alternative proposal design.</p>	<p><i>In order to maintain consistency with the planning assumptions described within the City’s Cumulative Impact Assessment and to ensure consistency with the No Net Loss (NNL) policy goal of the SMP-Guidelines, flexibility related to the alternative design provision with the City’s SMP, must be limited to Pier/Dock elements that commonly vary through use of a range of similar dock construction materials. Defining the limits to this flexibility will ensure that the City’s ability to satisfy NNL requirements (WAC 173-26-186 (8)) are not compromised. Further, shifting the authority to WDFW to adjust <u>any</u> SMP standard places an unreasonable burden on WDFW staff, as they may be asked to waive SMP-standards outside of their agencies regulatory focus/authority, which would undermine the City and Ecology’s obligation to maintain consistency with SMA/ SMP-Guideline implementotion obligations.</i></p> <p><i>Therefore, the identified amendment is necessary to limit WDFW consideration of alternative project design to project specific elements such as piling material/size and decking requirements.</i></p>
3	<p>Chapter 4 – Shoreline Modifications Section C.3.c OWS Regulation (Pg. 60)</p>	<p>Pier/Dock Replacement</p>	<p><u>Replacement of Existing Private Pier or Dock</u></p> <p>25. Proposals involving replacement of the entire private pier or dock, or 50 percent or more of the pier-support piles can be replaced up to 100% of the size area (square footage and dimension) of the existing pier or dock and shall comply with the following standards:</p> <p>a. Decking: All replacement piers must include decking with a minimum of 40 percent open space as described in subsection c.24.a. above.</p> <p>b. Replacement piles must be sized as described above under subsection 24.b, and must achieve the minimum 12-foot spacing to the extent allowed by site-specific engineering or design considerations.</p> <p><u>c. Width shall comply with “New Private, Non-Commercial Piers” standards (see Chapter 4 Section C.3.c.24.d).</u></p>	<p><i>The required changes are necessary to satisfy no net loss requirements, mitigate impacts to shoreline ecologic functions as recommended within the City’s Shoreline Analysis and Cumulative Impact Analysis (Watershed & Makers, 2010 and 2011) and to ensure consistency with Pier/Dock standards (173-26-231.3.b) from the SMP Guidelines.</i></p> <p><i>The SMP-Guidelines (WAC 173-26-231.3.b) characterize Pier/Docks as a Shoreline Modification, which should be restricted to the minimum size necessary and “designed and constructed to avoid or, if that is not possible, to minimize and mitigate the impacts to ecological functions” (Ecology, 2011). Pier/dock width greater than 4-feet within “nearshore” areas have not been shown to be consistent with SMP-Guideline requirements associated with Protection of Ecological Functions (WAC 173-26-201-2-c) and Environmental Mitigation (Mitigation Sequencing) at WAC 173-26-201 (2) (e). Mitigation Sequencing requires that Moster programs first <u>avoid impacts</u>, then for those impacts that cannot be avoided, jurisdictions are to minimize impacts. Finally remaining impacts which could not be avoided, or minimized, are to be <u>mitigated</u> as the third and final step in the sequence (Ecology, 2011). As analyzed and provided within the City’s Shoreline Inventory/Characterization Report (Watershed & Makers, 2010), the City’s Cumulative Impact Assessment (Watershed & Makers, 2011) and the Snohomish Basin Salmon Conservation Plan (SBSRF, 2005) existing habitat is recommended for “protection” and/ or “restoration” through reduction of overwater cover and in-water structures. The Shoreline Inventory/Characterization Report (Watershed & Makers, 2010; 47) recommends that SMP Pier/Dock standards provide clear “replacement” and “repair” definitions and</i></p>

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [<u>underline-additions</u> ; strikethrough-deletions]	ECOLOGY - DISCUSSION/RATIONALE
				<p>standards consistent with the SMP-Guideline section WAC 173-26-231-3b and "clear dimensional standards for new piers and replacement/modified piers", that are consistent with Washington Department of Fish & Wildlife (WDFW) practices on the lake.</p> <p>The City's Cumulative Impact Assessment (Watershed & Makers, 2011) cites adverse affects to shoreline ecological functions associated with Pier/Dock construction and provides a conclusion that the SMP will satisfy the No Net Loss of Ecological Functions requirement, when ecological improvements (such as use of transparent grating, reduction of overwater/in-water structure) are incorporated into replacement dock proposals. Therefore, the required change is necessary to implement the recommendations of the City's supporting analysis and to ensure compliance with applicable SMP-Guideline requirements.</p>
4	<p>Chapter 4 -- Shoreline Modifications Section C.3.c OWS Regulation (Pg. 60)</p>	Pier/Dock Additions	<p>27. When proposed additions to a private residential pier result in a pier that exceeds the maximum total length or width allowances for new docks as described in c.24 above, the addition may be proposed under a Variance application and subject to the following provisions:</p> <p>a. The applicant must remove any in-water structures rendered obsolete by the addition;</p> <p>b. The additional length of walkway or ell must be no wider than <u>4 feet within the first 30 feet from shore and up to 6 feet for walkway or ell sections located more than 30 feet from shore</u>;</p> <p>c. The decking of all new pier elements include decking with a minimum of 40 percent open space as described in subsection c.24.a. above; and</p> <p>d. Any proposed new piles must comply with standards under subsection c.24.b. above.</p>	<p>Same justification as item #3 above.</p>
5	<p>Chapter 5 – Use Policies & Regulations Provision C.8.a. Residential Use, Applicability definition (Pg. 84)</p>	Residential Applicability definition	<p>8. Residential Development</p> <p>a. Applicability</p> <p>Residential development means one or more buildings, <u>or structures, lots, parcels or portions thereof</u> which are designed for and used or intended to be used to provide a place of abode, including single-family residences, duplexes, other detached dwellings, floating homes, multi-family residences, mobile home parks, residential subdivisions, residential short subdivisions, and planned residential development, together with <u>normal appurtenances common to a single-family residence pursuant to WAC 173-27-040 (2) (g).</u> accessory uses and structures normally applicable to residential uses, including, but not limited to, garages, sheds, tennis courts, swimming pools, parking areas, fences, cabanas, saunas, and guest cottages. Residential development does not include hotels, motels, or any other type of overnight or transient housing or camping facilities.</p>	<p>The definition for "Residential Use" provided through the "Applicability" statement in the City's SMP is too broad and conflicts with other definitions provided in the SMP. Therefore, the proposed provision is inconsistent with the Residential Use description in the SMP-Guidelines at WAC 173-26-241.</p> <p>On page 98 of the SMP, the City has defined "Appurtenance" consistent with WAC 173-27-040(2) (g). However, as noted above the subject provision provides a much broader description of Residential Uses, which includes reference to "accessory uses", which again broadens the potential application of Residential Uses in a manner that is not consistent with WAC 173-27, or applicable sections of the SMP Guidelines. Broad applicont of undefined Residential Use elements beyond the scope of "normal appurtenance", could undermine cumulative impact assumptions anticipated by both the SMA and supporting materials relied upon for the local SMP-update. Cumulative impacts to shoreline ecological functions must be considered as part of this SMP-update.</p> <p>Therefore, Residential Use elements are authorized to include "normal appurtenances" (WAC 173-27), but cannot be broadly defined, as anticipation of the scope and intensity of future development is necessary to inform the cumulative impact assessment and overall assessment of no net loss resulting from implementation of the updated SMP. Therefore, this required change is necessary to appropriately define the scope and description of "Residential Uses" and "normal appurtenances".</p>

ATTACHMENT 1

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [<u>underline-additions</u> ; strike-through-deletions]	ECOLOGY - DISCUSSION/RATIONALE
6	Chapter 5 – Use Policies/Regulation Provision C.8.c.3.a.i (Pg. 85)	New Residential Setbacks	3. New residential development, including new structures, new pavement, and additions, within shoreline jurisdiction on lakes shall adhere to the following standards: a. Setbacks: i. New buildings: Set back all covered or enclosed structures <u>the average of the setbacks of existing houses on adjacent lots on both sides of the subject parcel</u> , with a standard minimum setback, which is a lake setback of 60 feet from the OHWM (consisting of 50 feet from the OHWM plus an additional 10 foot building setback). <u>Where the Shoreline Administrator finds that an existing site does not provide sufficient area to locate the residence entirely landward of this setback, the Shoreline Administrator may allow the residence to be located closer to the OHWM, provided all other provisions of this SMP are met and impacts are mitigated.</u>	<p><i>The subject provision, as proposed does not provide any limits or necessary details describing how the Shoreline Administrator would evaluate the need to waive or reduce shoreline setback standards. Further, the subject provision does not include a restriction to limit new structures from being constructed waterward of existing adjacent structures on neighboring lots.</i></p> <p><i>Therefore, the required changes are necessary to ensure consistency with the City's Cumulative Impact Analysis related to anticipate impacts resulting from future shoreline development. The change is also necessary to ensure consistency with the City's stated Shoreline Residential Management Policies (Chapter 2, Section C.4.c.), General Use Policies (Chapter 5, Section C.1.b.), Residential Use Policies (Chapter 5, Section C.8.b 1-7), or applicable SMP-Guideline standards (No Net Loss 173-26-186, Residential Use 173-26-241.3.j).</i></p> <p><i>As referenced above, a provision intended to limit construction of new residential structures waterward of adjacent structures on neighboring parcels, was included in previous drafts of the City's updated SMP. However, this provision limiting waterward migration of residential structures was not included in the locally approved SMP (Ord. #856). The identified change is necessary to ensure that the City's SMP is consistent with the policies listed above and the City's Final Cumulative Impact Analysis (Watershed and Makers, 2011). The City's analysis reiterate the importance of preserving shoreline setbacks by limiting waterward migration of residential structures closer to the shoreline to maintaining shoreline ecological functions to satisfy the no net loss goal of the master program update. The analysis refers to the "Average Setback" within the Shoreline Residential environment surrounding Lake Stevens, as greater than 60-feet, and provides the following conclusion related to potential cumulative impacts related to redevelopment potential of existing residential structures around the lake:</i></p> <p><i>"Although it would be possible, in some instances, for residences to be relocated closer to the shoreline than their existing condition, they would not be allowed further waterward than the greater of 60 feet or the average of their two adjacent structures. Presumably, this will continue to maintain an average setback greater than 60 feet, thereby minimizing the likelihood of additional degradation of ecological functions." (Watershed and Makers, 2011:26).</i></p> <p><i>Therefore, in order to ensure consistency with the City's analysis of no net loss, the required change is necessary to manage waterward migration through redevelopment of residential structures to maintain consistency with SMP-Guideline requirements.</i></p>
7	Chapter 5 – Use Policies/Regulation Provision C.8.c.3.d. (Pg. 87)	New Residential Development Patio	d. If there is no bulkhead, or if a bulkhead is removed, a small waterfront deck or patio can be placed along <u>within</u> the shoreline setback <u>provided the property owner agrees to not construct a bulkhead or install any hard shoreline stabilization to protect the deck in the future, and:</u>	<p><i>This required change is necessary to ensure that a property owner understands that a patio or deck constructed under this provision cannot be protected in the future with a bulkhead or hard stabilization. Therefore, the patio/deck should be installed at an appropriate location far enough away from the shoreline edge to not need protection in the future.</i></p>
8	Chapter 5 – Use Policies/Regulation Provision C.8.c.3.e. (Pg. 87)	New Residential Development Patio	e. All property owners who obtain approval for a waterfront deck or patio in exchange for removing a bulkhead and retaining or planting native vegetation must prepare, and agree to <u>not construct a bulkhead or install hard shoreline stabilization to protect the deck in the future, and</u> adhere to, a shoreline vegetation management plan prepared by a qualified professional and approved by the Shoreline Administrator that:	<p><i>Same rationale as provided above under Item #7.</i></p>

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [<u>underline-additions</u> ; strikethrough-deletions]	ECOLOGY - DISCUSSION/RATIONALE
9	Chapter 5 – Use Policies/Regulation Provision C.8.c.4. (Pg. 88)	New Residential Development Vegetation Retention	4. For new development on previously undeveloped lots, any existing native vegetation shall be retained along the-shoreline to <u>a minimum of 50-feet 20-feet upland</u> from the OHWM. If little or no native vegetation exists on the previously undeveloped lot, native vegetation shall be planted along the shoreline to 20 feet from the OHWM. 25 percent of the required vegetated area can be cleared or thinned for view maintenance and waterfront access, provided 75 percent of the area remains vegetated. Invasive species may be removed, vegetation trimmed, and trees —limbed up from the ground to provide views. In the 25 percent cleared area, pathways for access to the water are allowed.	<p><i>The City has <u>not</u> demonstrated that limiting vegetation retention to 20-feet upland of the OHWM will adequately protect water quality or habitat shoreline ecological functions pursuant to the SMP-Guideline at WAC 173-26-201(3) (d) (i). The City’s Critical Areas Ordinance (CAO) list Lake Stevens as a “Fish and Wildlife Habitat Conservation Area” (FWHCA), for which buffers range from 50’ to 150’ upland of the OHWM. Further, the City’s. SMP’s must include policies and regulations designed to achieve no net loss of shoreline ecological functions (WAC 173-26-186 (8) (b)).</i></p> <p><i>This change is required to ensure compliance with SMP-Guideline requirements related to Governing Principles of the Guidelines within WAC 173-26-186 (No Net Loss), Basic Concepts within WAC 173-26-201-2 (Use of Scientific/Technical Information, Adoption of Policies/Regulations and Protection of Ecological Functions)</i></p>
10	Chapter 5 – Use Policies/Regulation Provision C.8.c.7. (Pg. 89)	New Residential Development Creation of New Lots	<p>7. The creation of new residential lots within shoreline jurisdiction on lakes shall be prohibited unless the applicant demonstrates that all of the provisions of this SMP, including setback and size restrictions, can be met on the proposed lot. Specifically, it must be demonstrated that:</p> <ul style="list-style-type: none"> a. The residence can be built in conformance with all applicable setbacks and development standards in this SMP. b. Adequate water, sewer, road access, and utilities can be provided. c. The intensity of development is consistent with the City’s Comprehensive Plan. d. The development will not cause flood or geological hazard to itself or other properties. <u>e. Land-division creating four or more new parcels shall provide Public Access (see Chapter 2 Section 4.c.5. and Chapter 3 Section B.7.).</u> <p>In addition, new residential development on new lots that contain intact native vegetation shall conform to the regulations of subsection c.4 above. (See also vegetation conservation standards in Chapter 3 Section B.11).</p>	<p><i>This required change is necessary to ensure internal consistency between the subject provision and a “Public Access” related provision within Chapter 3 – Section B.7., and to satisfy SMP-Guideline requirements related to Residential subdivision that create four or more new parcels (WAC 173-26-241.3.j)</i></p>

References:

Watershed & Makers 2010, The Watershed Company and Makers. February 2010. DRAFT Shoreline Analysis Report for the City of Lake Stevens Shorelines: Lake Stevens, Catherine Creek, and Little Pilchuck Creek. Prepared for the City of Lake Stevens Planning and Community Development Department, Lake Stevens, WA.

Watershed & Makers 2011, The Watershed Company and Makers. December 2011. Cumulative Impacts Analysis for the City of Lake Stevens Shorelines: Lake Stevens, Catherine Creek, and Little Pilchuck Creek. Prepared for the City of Lake Stevens Planning and Community Development Department, Lake Stevens, WA.

Snohomish Basin Salmon Recovery Forum (WRIA 7). 2005. Snohomish River Basin Salmon Conservation Plan Final. June 2005.

Department of Ecology. 2011. Shoreline Master Program Handbook; SMP Updates Piers, Docks and other structures. Accessed at: http://www.ecy.wa.gov/programs/sea/shorelines/smp/handbook/pdf/Piers_docks_guidance_1-10-11.pdf

ATTACHMENT 1

The following changes are recommended to clarify elements of the City's updated SMP.

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [<u>underline-additions</u> ; striketrough-deletions]	ECOLOGY - DISCUSSION/RATIONALE
A	Chapter 5 – Shoreline Use Provision 8.c Regulation 13 (Pg. 56)	Residential Development Standard	b. <u>Detached ((G))garages and vehicle (motorized and recreational) parking areas</u> ((and pavements for motorized vehicles (drives and parking areas))) shall be set back at least 200 feet from the OHWM. If the Shoreline Administrator determines that the property is not sufficiently deep (measured perpendicularly from the shoreline) to allow construction of garages or parking areas outside of shoreline jurisdiction then (s)he may allow such elements to be built closer to the water, provided that the garage or parking area is set back from the water as far as physically possible.	<i>This recommended change is requested by the City of Lake Stevens to clarify application of this provision.</i>

Attachment D

Responsiveness Summary to Public Comments

The City of Lake Stevens (City) adopted Ordinance #856 on November 28, 2011 authorizing submittal of the updated Shoreline Master Program (SMP) to the Department of Ecology (Ecology) for review. Ecology notified the City of a complete submittal in a letter dated February 27, 2012, initiating formal review of the updated SMP. The Department of Ecology accepted public comments on the City's updated SMP between April 17 and May 18, 2012 and at a public hearing hosted by Ecology on April 19, 2012. Notice of the comment period and public hearing was published in the Everett Herald on April 10, 2012 and was also mailed to over 100 individuals listed as regional or local interested parties. Ecology received testimony from five individuals at the Public Hearing (PH) on April 19th and written comments (W) from six individual as summarized below.

Please note, the statements below are not the opinions or comments of Ecology, but rather summary of comments received during the public comment period.

Item No.	Comment Topic	Name of Commenter	Comment	Local Government Response
W-1	Shoreline Modification (Section 3C) Overwater Structures – Covered Moorage, Regulations 15 and 34	Cliff Call callcg@aol.com	(Covered Moorage) Stated opposition to the allowance of (new) covered moorage, recommend prohibition of new covered moorage structures within the City's shoreline jurisdiction. Mr. Call contends that neither walled nor open (no walls) covered moorage structures are necessary to shelter the relatively small lake boats that are common to Lake Stevens. Further he states that commercially available canvas covers are adequate in protecting boats/watercraft used on the Lake and can easily be removed in the off-season. Mr. Call points out that permanent covered moorage structures obstruct views of the lake from nearby neighbors or nearby public parks and require long term maintenance, for which he highlights concerns related to paint/stain polluting the water quality of the lake and the potential lack of commitment to long-term maintenance by future land owners after properties with covered moorage structures change hands.	<p>City of Lake Stevens Response: In considering the allowance of covered moorage, the City recognized that the portions of the lakeshore under County jurisdiction are allowed "boathouses" with no walls under Ecology's approved Snohomish County Shoreline Management Program. In order to minimize the visual obstructions and overwater coverage, the City adopted specific criteria for new covered moorage in SMP 4C3c34:</p> <p>34. Covered moorage with no sides may be permitted as an accessory to residential development provided that:</p> <ul style="list-style-type: none"> a. Only one per dock; b. Dimensions no larger than a total of 240 square feet; c. Maximum height of roof at 8 1/2 feet above dock; d. Structure shall be located at least 30 feet waterward from the OHWM; and e. Flat roofs are prohibited. <p>In order to protect the lake, water and wildlife, the SMP includes specific description of the types of paint, stain or preservatives for use on overwater or in-water structures at SMP 4C3c13.</p>
W-2	Shoreline Modification (Section 3.24C) Overwater Structures	John Volpone 10430 Sandy Beach Drive Lake Stevens, WA	(Dock Length) Concern that the 150-foot dock length is too limiting for moorage, due to shallow water along some parts of the lake. Specifically, Mr. Volpone requests retention of the 200' dock length limit provided in earlier draft of the SMP, that he states is necessary to allow adequate depth for moorage during low water summer months.	<p>City of Lake Stevens Response: SMP 4C3c24ci does include an exception for the Shoreline Administrator to approve a longer dock to reach the 5 and a half foot depth. However, the same exception states that no dock should extend more than 150 feet from the shore. Throughout the process, it was felt that 150 feet was an appropriate limitation given the size and configuration of Lake Stevens.</p>

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PH-1	(same as above)	Testimony of John Volpone.	<p>(Summary Testimony) Mr. Volpone also provided testimony generally consistent with comments summarized above, at the Public Hearing on April 19. In addition to requesting that the maximum dock length be extended to 200-feet, Mr Volpone points to the recent popularity of the use of “wake boats” on the lake, which he identifies the waves from this activity as contributing to damage to the bottom of his boat from hitting the bottom of the lake when the lakes water level is low. Finally, Mr. Volpone notes that this problem is isolated to the northeast corner of the lake, which he predicts will be ongoing, as describes the input of silt is transported to the north end of the lake by the prevailing south winds throughout the year.</p>	<p>City of Lake Stevens Response: See Response W-2 above.</p>
W-3	<p>Shoreline Modification Length of Overwater Structures</p>	<p>Ted Boysen 10432 Sandy Beach Drive Lake Stevens, WA lbaysen@comcast.net</p>	<p>(Dock Length) Similar comment to Item W-2 (above), Mr. Boysen is also concerned that 150-foot dock length limit will not provide a reasonable depth for mooring his boat. Mr. Boysen states that a 175-foot limit would be a fair compromise. He concludes that the proposed (shorter) limit would be: unfair, dangerous, cause damage, and would restrict the intended recreational use of the lake.</p> <p>(Placement of Weir Boards) For Lake Stevens City Officials, can you please put the weir boards in now? The lake level has already gone down around 6 inches.</p>	<p>City of Lake Stevens Response: Dock Length. See Response W-2 above.</p> <p>Placement of Weir Boards. The City uses an adopted Lake Management Plan to determine the placement of the weir boards and monitors the weir weekly. The lake level is actually higher than the desired elevation for this time of year. The concern with placement of the weir too early is that the lake can rise rapidly during heavy rain events (seen this past month) and result in some potential flooding conditions. This can be seen from the rain event this last weekend where the lake elevation increased by 2 inches over 72 hours without the weir being in place.</p>
W-4	<p>Shoreline Modification (Section 3) Overwater Structures</p>	<p>Bruce Morton 11222 Vernon Road Lake Stevens, WA</p>	<p>(Roof Style – Covered Moorage) Mr. Morton states that the SMP’s prohibition on flat roofs for covered moorage structures, should be removed and states that it “...is an arbitrary decision”, not based on “...preservation or enhancement of the ecological functions of the lake”.</p>	<p>City of Lake Stevens Response: The City Council discussed the issue of flat vs. peaked roofs on covered moorage extensively at the public hearings. The motion was made on whether to allow flat roofs and five votes for no flat roofs and two for flat roofs so the no flat roof language was adopted as a preference for Lake Stevens.</p>
W-4a	<p>Non Conforming Use</p>	(same as above)	<p>(Non-Conforming Question) Mr. Morton requests confirmation on existing non-conforming elements that can be maintained and will not be required to discontinue or change?</p>	<p>City of Lake Stevens Response: SMP 7G describes existing structures and development legally established prior to the effective date of the SMP. It also states that any expansion or reconstruction must meet the provisions of the SMP. In general, legal existing structures, uses and appurtenances may remain and be maintained.</p>

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PH-2	(summary of above comments)	Testimony of Bruce Morton.	(Summary Testimony) Mr. Morton also provided testimony at the Public Hearing on April 19, consistent with comments summarized above.	City of Lake Stevens Response: See Response to W-4a above.
W-5	SMP-Update Process	Futurewise, Contact Dean Patterson Dean@futurewise.org	(Supplemental Materials) Futurewise have submitted three guidance documents that they request be added to the official record for the City's SMP update: <ul style="list-style-type: none"> • "Futurewise's Guidance on No-Net-Loss of Ecological Functions, Cumulative Impact Analysis and Restoration" • "Futurewise's Guidance on Establishing Shoreline Environments" • "Futurewise's Guidance on Buffer Options Using Science" 	City of Lake Stevens Response: The letter from Futurewise with the three guidance documents were submitted as written testimony. The City Council considered all verbal and written comments in their final decision on adoption of the SMP. The City concludes that adequate environmental protections are included in the SMP submitted to Ecology for final review and approval.
W-5a	Mitigation (Environmental Impacts)	(same as above)	(General Mitigation) General comment that the SMP lacks sufficient compensatory mitigation requirements. Futurewise recommend that the City revise the SMP to "require mitigation plans" (not optional), except for a few exceptions that are listed in comments. They also have provided recommended language (page 2) within their comment letter, which they recommend be integrated into the City's SMP. (Compensatory Mitigation) In addition Futurewise suggests that the City incorporate either specific compensatory mitigation requirements for each use, or as illustrated by a Bainbridge Island example, integrate into the SMP more general compensatory mitigation requirements.	City of Lake Stevens Response: The Critical Areas Regulations for Shoreline Jurisdiction were based on the adopted Critical Areas Regulations for the City (Chapter 14.88 LSMC), which was based on Best Available Science. In addition, the City and Ecology spent months discussing the shoreline critical areas regulations with the final outcome that the City changed the shoreline regulations to be consistent with Ecology's "Wetlands & CAO Updates: Guidance for Small Cities. Western Washington Version" dated January 2010 (revised July 2011).
W-5b	Shoreline Stabilization	(same as above)	(Stabilization Definition) Futurewise note that the City developed an excellent statement of preference regarding hard, hybrid and soft stabilization measures, but recommend that stronger regulatory language be incorporated into the SMP to ensure consistent implementation of these preferences. (Stabilization Mitigation) Similar to mitigation comments (item 5a) above, Futurewise recommend that the City provide additional regulations describing how compensatory mitigation should be done for Shoreline Stabilization projects.	City of Lake Stevens Response: Currently, about 78-83 percent of the Lake Stevens shoreline is armored. The lake is an active recreational lake with different types of motored equipment causing wave action on the shore. Shoreline Stabilization requirements are very specific in Ecology's SMP Guidelines to ensure all jurisdictions provide appropriate protection. The City modified the shoreline stabilization section after early comments from Ecology. In addition, the City reviewed shoreline stabilization sections of other adopted SMPs. SMP 4C2b1 is a policy about the preference for soft over hybrid over hard structures and that requirement must be demonstrated. Although language is

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				<p>not again repeated in the regulations, SMP 1E1 clearly states:</p> <p><i>“ALL new development, uses, and activities must comply with the policies and regulations set forth in the City of Lake Stevens Shoreline Master Program, including those developments, uses, and activities that are exempt from permits.”</i></p> <p><i>The current language in the SMP meets the Ecology Guidelines and Shoreline Management Act, is consistent with recently adopted SMPs and is protective of the shoreline of Lake Stevens.</i></p>
W-5c	<p>Overwater Structures Pier/Dock standards (Section 3.c.4 and .15)</p>	(same as above)	<p>() Futurewise comment that “...temporary cabanas need to be prohibited,” as they are not a water-dependent use and would be inconsistent with RCW 90.58.020 (fourth paragraph) and WAC 173-26.241(2)(a).</p> <p>() Futurewise state [that] “The SMP correctly prohibits walled covered moorage”, but further recommend that all covered moorage be prohibited, as they conclude that allowance of such facilities is not necessary to support water-dependent components of uses within the City and is inconsistent with the intended purpose of mitigation sequencing to avoid unnecessary impacts. As an alternative, Futurewise could accept allowance of “small non-structural, translucent boat canopies”.</p> <p>(Pier/Dock Area) Futurewise argue that the City’s SMP should provide overwater structure “...area limits of 500 to 700 square feet, consistent with what other jurisdictions have adopted with Ecology approval”. Futurewise also recommend narrower pier/dock width requirements, and mitigation for “distinct impacts” of allowing use of 40% (open-space) grating/no grating more than 30-feet seaward of OHWM.</p> <p>(Overwater Structures – General) Futurewise recommend specific language as provided on page 4 (2nd paragraph) of their comment letter be incorporated into the City’s SMP regarding “Public, Community and Commercial Overwater Structures”.</p> <p>(Overwater Structure Mitigation) Finally, Futurewise recommend that mitigation be specified for dock and pier proposals that not only minimize, but offset all impacts, for which other options may need to be considered, including out of kind mitigation such as removal of armoring, vegetation</p>	<p>City of Lake Stevens Response: Non Water-Dependent. The Shoreline Management Act and Ecology’s SMP Guidelines allow for accessory structures for single-family residential uses including garages, sheds, tennis courts, swimming poles, etc. Temporary cabanas allowed for five months of the year (SMP 4C3c1) is an accessory use to a single-family residence, would not create additional coverage of the water if placed on a dock, nor harm the shoreline if placed on the shore as it is a temporary structure. It is not inconsistent with the referenced RCW or WAC.</p> <p>Covered Moorage. Please see previous discussion of covered moorage in Response W-1. Ecology recently adapted the Snohomish County’s Shoreline Management Program with the allowance for non-walled boathouses. It would be inconsistent to restrict open covered moorage on the same lake within the City with the recent approval by Ecology on other areas of Lake Stevens within Snohomish County jurisdiction.</p> <p>Pier/Dock Area . Lake Stevens is not under the jurisdiction of the Army Corps of Engineers Regional General Permits as required on Lake Washington and other areas with Chinook Salmon. Lake Stevens has Kakanee, which tends to use the first 30 feet from shore for migration. Therefore, discussions with Fish and Wildlife and Ecology lead to the current restrictions of a four-foot width in the first 30 feet with 40 percent open space, but allowing for six-foot widths past the first 30 feet and no maximum dock area. However, there are other restrictions on number of docks per lot, length/width of ells, fingers and float, and replacement of docks. Currently, many docks on Lake Stevens are six to ten feet in width with no open space, so over time, the new regulations will reduce overwater coverage. These regulations are also consistent with</p>

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			<p>enhancement, etc. Futurewise conclude that at a minimum, a mitigation plan must be required and must address the avoidance, minimization and compensation components of mitigation sequencing, for which their comments provide some additional examples.</p>	<p><i>the recently adopted Snohomish County SMP.</i></p> <p>Overwater Structures – General. <i>During the SMP process, it was brought to the City’s attention that there is at least one existing community with more than one dock and more than four houses. This community has on the face of the approved plat and in the covenants that seven individual docks and a shared dock for the rest of the houses was allowed. This would not fit with the proposed language. In order to allow the existing community docks to continue, SMP 4C3c44 was added. In the SMP, boating facilities (SMP 5C3) are related to commercially-related boating facilities such as marinas, boat launch ramps, etc. not related to private residential development.</i></p> <p>Overwater Structure Mitigation. <i>SMP 3B4c lays out the environmental impact regulations for shoreline projects including a clear sequence of steps in order of priority from avoid, minimize, rectify, reduce/eliminate, compensate, and monitor impacts. The Critical Areas Regulations for shoreline areas has many specific requirements related to mitigation enhancement, monitoring, etc. Based on the No Net Loss Report specific mitigation is not required for private residential docks and piers as long as they meet the policies and regulations in the SMP. Residential docks are on allowed water-dependent use under the SMA and do not require proof of need or a mitigation plan. There are some regulations that allow for additional structure or uses, for example a lakeside deck of 200 sq.ft. if specific mitigation is completed. These also would not require a mitigation plan as long as they meet the policies, regulations and specific mitigation listed within the SMP. The City has specific submittal lists that are consistent with the WAC for review of all shoreline permits (WAC 173-27-040).</i></p>
W-5d	<p>Shoreline Setbacks (Section C.8.c.3.a)</p>	(same as above)	<p>(Setback Standards) Futurewise state concerns with the City’s setback standards, which they argue do not account for the variation in existing waterfront setbacks along the lake. Of particular concern, Futurewise state that at least ¼ of the existing development along the lake is located more than 50-feet from the OHWM (some more than 100-feet), for which they argue that the City’s Cumulative Impact Analysis does not account for the potential net loss of shoreline ecological functions when/if these existing structures were redeveloped at a location closer to the shoreline, which would be allowed by the SMP. Futurewise recommend two alternative</p>	<p>City of Lake Stevens Response: <i>One of the first steps in the SMP process is completion of an Inventory and Analysis report to set the existing baseline of the shoreline areas. This was completed by the City’s consultant, The Watershed Company. In addition, the current setback from the lake is 50 feet with a building setback of an additional 10 feet. The lake is highly urbanized with mostly small parcels. Per the City’s Cumulative Impacts Analysis, the average setbacks for existing residences is 64 feet on the western shoreline of Lake Stevens, 103 feet on the eastern shoreline, and 98 feet on the northern shoreline. After listening to public testimony about other jurisdictions with 35</i></p>

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			amendments to the existing shoreline setback standards as described on pages 4 and 5 of their comment letter.	<i>foot setbacks it was determined to retain the existing minimum 60 ft setback for development. However, also due to public testimony, the Council allowed for existing homes within the minimum setback some expansion, however, mitigation will be required (SMP 5C83a). Single-family residences are proposed to allow appurtenant structures, but there is a 40 percent impervious surface requirement. However, as per Futurewise, the SMP would allow a property owner to subdivide a large lot, which could bring a house closer to the shoreline, or a new house could be built closer to the shoreline if the existing house was removed. Tree retention regulations and planting in the first 20 feet of shoreline for new development is expected to reduce the impacts for new development.</i>
W-5e	Vegetation Management (Incentives and compensatory enhancement)	(same as above)	<p>(Vegetation Management Incentives) Futurewise characterize re-vegetation incentive C.8.c.3.d allowing "...on-the-water docks covering 25 percent of the water frontage in exchange for replanting a narrow width for the rest of the frontage" as "...not an incentive, [but] it is a give-away development allowing for non-water dependent uses...to cause new impacts" which they conclude is not consistent with either the SMA or the SMP-Guidelines. They state their opposition to this particular regulation and suggest that if the provision remains as part of the SMP, then additional mitigation such as pulling an existing bulkhead should be required.</p> <p>(New Development) Related to compensatory vegetation enhancement, Futurewise provide multiple recommendations covering a number of shoreline development scenarios. For development on vacant lots, Futurewise state that the SMP will only protect intact native vegetation and require replanting within 20-feet of the shoreline edge, which they argue is inadequate to offset anticipated impacts from future development. Futurewise argue that new development on vacant lots will have much larger (new) impacts compared to impacts resulting from redevelopment/expansion of existing uses. Based on this logic, they recommend (at a minimum) that the full setback (50-feet) be replanted to mitigate impacts from new development on vacant lots.</p> <p>(Existing Development) In regard to expansion of existing development, Futurewise suggest that in order to compensate for Cumulative Impacts, the City should supplement their 20-foot enhancement area approach by</p>	<p>City of Lake Stevens Response: Vegetation Management Incentives. The referenced incentive for waterfront deck or patio could only be used if the parcel has not reached the impervious surface requirement of 40 percent, does not have a bulkhead or removes the bulkhead, and meets a number of other requirements. As part of the No Net Loss report, this was shown to not have significant impacts to the loss of the resource. Under SMA, it is considered on appurtenant use for a single-family residence and could be allowed.</p> <p>New Development. Of the approximately 417 lakefront parcels on Lake Stevens, 398 are built out. Another six are parks. This leaves 12 parcels undeveloped. It is likely that they are undeveloped because they have critical areas or are not large enough for development and thus, will not be developed in the future. With minimal undeveloped parcels, having more restrictions on new development would not provide much benefit to the resource. In addition, the Cumulative Impacts Analysis and No Net Loss Report show no loss of habitat or significant impacts from the regulations in the proposed SMP.</p> <p>Existing Development. The City appreciates the concerns Futurewise has to protect the shores of Lake Stevens. The SMA requires a very specific process spelled out by Ecology in SMP Guidelines to follow when updating the SMPs. The City and their consultants worked closely with Ecology, Fish and Wildlife, residents and the public to find the best path for protection of the resource. The Shoreline Management Act does not require a shoreline to be returned to</p>

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			requiring a 1-sq-foot enhancement for each square foot of new development proposed within shoreline jurisdiction. Along with this recommendation, Futurewise note that the City's existing SMP standard only requires the "one-to-one enhancement" for expansion of structures within the 50-foot shoreline jurisdiction and allows for use of low-impact development techniques as a substitute for vegetation enhancement. Therefore, Futurewise recommend that the SMP standard be amended to apply to all development anywhere within shoreline jurisdiction, limit mitigation to "in-kind" vegetation enhancement (i.e., not low-impact development substitutes), specify that all intact vegetation within the setback must be protected, and as a minimum vegetation standard require that mitigation for expansion of existing development enhance degraded vegetation conditions within a 20-foot width for 75% of shoreline frontage.	<i>pristine conditions, but instead to not reduce the current baseline so showing No Net Loss. The Inventory and Analysis Report was completed to determine the baseline, which for Lake Stevens is an almost completely built out and armored urban lake with minimal natural vegetation except in specific areas. The Cumulative Impacts Analysis and the No Net Loss Report show that the SMP policies and regulations do protect the habitat and resource from increasing the baseline environment. In addition, the City is required to monitor how the regulations are working as development occurs and at the next update will be required to make modifications if the regulations are not meeting the required protections of the SMA.</i>
W-5f	Shoreline Buffers (Setback Reduction, Scientific Basis and Cumulative Impact Analysis)	(same as above)	<p>(Buffer/Setback Reduction) In reference to the SMP's allowance for buffer reduction based on intervening development, Futurewise recommend that this standard only be allowed for areas where native vegetation has already been eliminated, as native vegetation provides ecological functions.</p> <p>(Scientific Basis) Futurewise state that they could not find a "scientific basis" for the City's proposed buffer system, for which they have included on a CD a copy of their Critical Areas Ordinance Guidance, which they suggest the City use to cite scientific references provided in the Guidance to justify the SMP's buffer system within the context of buffer science and the applicable requirements of the SMA and GMA.</p> <p>(Cumulative Impact Analysis) Futurewise conclude that the City's CIA does a good job describing the SMP's protection measures, but is vague in describing impacts allowed through regulatory gaps in the SMP. They recommend that the City supplement the CIA by including "...a more careful assessment of the impacts that the SMP will allow." and cite their Guidance as providing additional details related to this recommendation.</p>	<p>City of Lake Stevens Response: Buffer/Setback Reduction. <i>The definition of Significant Ecological Impact includes a reduction or harm to ecological functions or ecosystem-wide processes, which if affected would require mitigation sequencing. In addition, the City's current code has a Tree Retention requirement (LSMC 14.76.120).</i></p> <p>Scientific Basis. <i>The current lake setback was set in 2007 as part of the Critical Areas update, which included Best Available Science. As discussed previously, one of the first steps in updating the SMP was to determine a baseline including setbacks. Based on the reality in place around the lake today and the minimal 12 undeveloped or underdeveloped properties, it was determined between Ecology and the City's Wetland Consultants that staying with the current 50 foot setback plus 10 foot development setback would be protective of the lake habitat and minimize nonconforming structures and uses around the lake. An increase of lake setback of 100 feet would put most development including houses and appurtenant structures within the buffer and create nonconforming structures and uses.</i></p> <p>Cumulative Impact Analysis. <i>Futurewise's proposal to create three different setbacks around the lake to better meet the varied setbacks of 63, 98 and 100 feet of current structures would reduce the number of additional nonconforming structures and uses discussed in the paragraph above. However, the code would be more challenging for property owners than to</i></p>

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				<p><i>use one lake setback. Again, with only 12 parcels undeveloped on the lakeshore, there is probably minimal impact to the cumulative impacts from a change to varied setbacks.</i></p>
PH-3	(Summary of above comments)	(Testimony) Kristin Kelly – representing Futurewise 1429 Avenue D, #523 Snohomish, WA 98290	(Summary Testimony) Ms. Kelly stated that she is representing Futurewise, Audubon Society and People for Puget Sound. She provided written copies of the comment letter and supplemental Guidance documents and then provided a summary of the written comments consistent with the summary of issues provided above.	<p>City of Lake Stevens Response: The City Council did take under consideration previous written and verbal testimony from Ms. Kelly when adopting the SMP for submittal to Ecology. Any new verbal or written testimony submitted as part of the Ecology review process has not been considered by the City Council.</p>
PH-4	SMP Update Process – Public Input	(Testimony) Gigi Burke. 920 East Shore Drive Lake Stevens, WA	(Public Input) Provided testimony to remind everyone that a number of lake residents have invested a lot of time effort and resources into the SMP update, for which Ms. Burke stated that she did not want to reiterate all the points that were already made. However, she believes that people involved in the update want a healthy lake for fish and wildlife and future generations, but want to make sure that preservation is done in a reasonable manner that is not going to cost a lot of money and will provide people with the ability to maintain their existing properties as they do today. Ms. Burke raised concern with other testimony provided during the hearing, which she stated does not represent people who live on the lake and hopes that materials and concerns previously presented to the City will be taken into consideration.	<p>City of Lake Stevens Response: Throughout the two year SMP Update process, the City has worked with experienced SMP consultants, a Citizen Advisory Committee, Ecology, Fish and Wildlife, residents, Futurewise, and other concerned parties. There are many complicated concerns and issues that had to be worked out. The proposed SMP is a coordinated effort to protect the shoreline habitat for No Net Loss as well as provide future use for property owners, lake users, and visitors. The process involved give and take on all sides, but the end product was required to meet the SMP Guidelines and the requirements of the Shoreline Management Act and to prove No Net Loss and show negligible cumulative impacts. The City believes the Council adopted SMP meets these objectives.</p>
PH-5	Shoreline Modification (Section 3) Overwater Structures	(Testimony) Patricia Perry 1611 Vernon Road Lake Stevens, WA	(Safety) Ms. Perry raised diving safety concerns related to dock length limits within the SMP that intend to minimum length to achieve a minimum of 5 ½-feet of water depth for boat moorage. Ms. Perry acknowledges that docks are intended for moorage of boats, not for diving, but states that the reality is that kids will dive/swim off docks and suggest that the City increase the minimum water depth standard to 8 ½-feet consistent with an American Red Cross recommendation to support safe diving. Having personally experienced a spinal injury after diving into shallow water, Ms. Perry would like to avoid this happening in Lake Stevens and remains concerned about the potential (legal) liability to a property owner, if someone was injured while diving off a	<p>City of Lake Stevens Response:</p> <p>Safety. The City Council did take the information provided from the American Red Cross with all other public testimony including depth required for size of boats on the lake to make a determination on depth at the end of the dock. The Council chose to keep the 5 and a half foot depth at the end of the dock because of Ecology guidelines that say a dock is intended for moorage, not diving.</p> <p>Overwater Structure side-yard setback. Based on the Cumulative Impacts Analysis, there are only 19 lots with no docks and 12 of these are</p>

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			private dock. (Overwater Structure side-yard setback) Ms. Perry raised a second point recommending that the City reinstate the 15-foot or 20-foot minimum side yard setback between adjacent docks on neighboring properties. Ms. Perry stated that the proposed 10-foot minimum (dock) side yard standard is too small and would allow a number of narrow (existing) parcels the ability to build a private dock, which they could not do under current standards. Ms. Perry concluded that her concern is based on increased cumulative impacts associated with the allowance for new docks on these smaller parcels and the subsequent regulatory limits that are then applied to larger (wider) lots for docks, so that the City is able to satisfy the no net loss standard.	undeveloped. With the minimal amount of new docks vs. replacement docks, stricter regulations on these potential 19 docks would make negligible difference to the potential 398 replacement or enlarged docks according to the Cumulative Impacts Analysis prepared for this process.
W-6	SMP Update Process (SMP submittal record)	Save our Shorelines Lake Stevens (SOSLS) Samuel Rodabough Groen Stephens & Klinge, 11100 NE 8 th Street, Suite 750 Bellevue, WA 98004	(Supplemental Materials) SOSLS request that the following correspondence be added to the official record for the City's updated SMP: <ul style="list-style-type: none"> • Email and Attachment dated May 18, 2012 4:47PM, Subject: "FW Proposed Lake Stevens SMP – EHB 1653 Ecology Letter.pdf" • Email and Attachment dated May 18, 2012 4:47PM, Subject: "FW Proposed Lake Stevens SMP – Wetland Buffers Wetland Buffer Reduction Provisions.docx" • Email string dated May 18, 2012 4:50 PM, Subject: "FW Proposed Lake Stevens SMP – Wetland Buffers" 	<p>City of Lake Stevens Response: Although the exact emails in the first two bullets were not included directly as public testimony as they were provided as part of the discussion with the Council Subcommittee and the issues discussed with the Subcommittee and SOSLS, the information contained was included in the Council's November 21, 2011 Public Hearing Packet (Attachment A), Attachment 7 of Supplemental Information sent to Council by email separately from staff report (Attachment B) and discussed by Planning Director Ableman during the public hearing (see minutes, Attachment C).</p> <p>The Wetland Buffer issue had been discussed over many emails and on November 21, there was a much longer email string than the two sent to Joe Burcar on May 18th and listed in the first two bullets. As the email string in Attachment D shows, the City and Mr. Rodabough went back and forth many times until 2:59 pm on November 21, 2011. The Council Staff Report included a note (page 5 of the overall packet) stating language changes for Wetland Buffer Reductions would be provided under separate cover. As part of the supplemental information sent by email, the proposed new wetland buffer reduction language was included as Attachment 7. Then, as shown in the minutes for the November 21 hearing, Planning Director Ableman stated new language was drafted by the citizen group and reviewed by staff, but would be discussed with Ecology by phone in two days. In the same minutes, Mr. Rodabough is shown providing testimony on the same subject on page 3 and</p>

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 Responsiveness Summary to Public Comments

Item No.	Comment Topic	Name of Commenter	Comment	Local Government Response
				<p>stating he had spoken with Tom Clingman and Jeff Talent at Ecology.</p> <p>As part of the November 28, 2011 Council Public Hearing Staff Report (Attachment E, page 25 of entire packet), it was again discussed that the Wetland Buffer Reduction language was reviewed by staff with Ecology and new language was included as Attachment 8. In addition, the November 28, 2011 minutes (Attachment F, page 1 show Planning Director Ableman again mentions the wetland buffer reduction information. These same minutes (page 3) show Mr. Rodabough stating:</p> <p>“(1) wetland buffer issue: It is his understanding that a compromise was struck today dealing with Ecology. He’s seen that language, it’s not perfect, but it is largely acceptable. He would recommend Council take action on that.”</p> <p>As you can see from the summary above and the attached documents, that although the specific email string was not entered into the public testimony directly, the information was definitely discussed with Council, was included in the staff reports, and verbal testimony by Mr. Rodabough on the same subject was provided to Council.</p> <p>In regards to the third bullet, the City was not a party to the email nor included as a cc on the letter. The City is aware that Ecology provided a response to Mr. Rodabough, but does not have a copy of the response letter.</p>
W-7	Existing Structures (Chapter 5, Section 8.c.3)	(same as above)	<p>(Existing Use Standards) SOSLS request verification that the SMP provision allowing for up to 600-square feet of expansion of an existing structure (located within the standard setback) is intended to be applied as a “footprint limit” as opposed to a “total square foot limit” as the total would count area of multiple floors, which they feel does not accurately reflect the minimal impact difference between one vs. multi-story structures. SOSLS recommend that this provision be clarified to be consistent with this intent.</p> <p>(Side-yard Expansion) In addition, SOSLS voiced concern related to Ecology’s comments at the public hearing in reference to tighter adherence to mitigation sequencing and the encouragement for new development to be located landward of setback areas. SOSLS suggest that since most shoreline homes along Lake Stevens are oriented toward the shoreline, “practical</p>	<p>City of Lake Stevens Response: Existing Use Standards. The minutes in Attachment F shows the motion made to be up to 600 square feet allowed in the side yard setback provided mitigation sequencing is applied (page 4). Based on the final language adopted by Council, staff would implement the regulation as 600 square feet as a maximum footprint.</p> <p>Side-yard Expansion. This comment is based on Ecology’s comments. From the City’s perspective on the proposed SMP, an applicant would need to describe in the application, written by a biologist or advised by a biologist, why they cannot avoid, minimize, rectify, reduce/eliminate, compensate, and monitor impacts (mitigation sequencing). If they can provide documentation for each step that would be concurred with by the City’s Environmental Consultant, then the applicant would be able to build in a particular location</p>

Attachment D
Responsiveness Summary to Public Comments

Item No.	Comment Topic	Name of Commenter	Comment	Local Government Response
			realities" related to future remodel of specific rooms (kitchens, family rooms, etc) located on the shoreline side of an existing residence should also be considered when determining the appropriate location for expansion to existing structures.	<i>with appropriate mitigation.</i>
W-8	Shoreline Modification (Section 3) Overwater Structures	(same as above)	(Overwater Structure Dimensional Standards) SOSLS restate that Ecology lacks the justification for imposing narrower dock widths (within 30-feet of OHWM) in Lake Stevens. Characterizing Regional General Permit (RGP) 3 as a "safe harbor" for applicants with the Army Corps of Engineers, SOSLS state that the RGP standards are not applicable to Lake Stevens, further stating that the Army Corps routinely grants individual permits that exceed the overwater dimensions contained in RGP 3.	City of Lake Stevens Response: Question is pased to Ecology, not to the City of Lake Stevens.

January 28, 2013

Mr. Joe Burcar
WA State Department of Ecology
Northwest Regional Office
3190 160th Avenue SE
Bellevue, WA 98008-5452

**RE: CITY OF LAKE STEVENS – SHORELINE MASTER PROGRAM (SMP) UPDATE
Request for Extension of 30-Day Requirement for Response to Ecology’s
Conditional Approval Letter**

Dear Mr. Burcar:

This letter is to request an extension to the 30-day response to Ecology’s Conditional Approval Letter dated January 4, 2013, but received by the City on January 14, 2013. We are requesting an extension to April 30, 2013.

The residents within the City have been very involved in creating the Shoreline Master Program and will want involvement in responding to Ecology’s required changes. Therefore, the City Council requests additional time for a public process to collect citizen comments, review the comments in light of the required changes, and determine whether to accept the changes or submit an alternative proposal.

If a decision is made to propose alternative language, additional research and analysis may be required. Staff and consultants will need time to complete this analysis.

Therefore, the City of Lake Stevens would like to request an extension of the 30 days to respond to Ecology’s Conditional Approval Letter to April 30, 2013. Please contact Rebecca Ableman at 425-377-3229 or Karen Watkins, Principal Planner, at 425-377-3221 with questions.

Sincerely,

Vern Little
Mayor

Cc: Project File

City of Lake Stevens SHORELINE MASTER PROGRAM UPDATE SCHEDULE (LS2009-11)

ACTIVITY	2013 JAN	FEB	MARCH	APRIL	MAY	JUNE	JULY
Ecology Signs Decision Package & Transmits to City (30-Day Response Period)	4--14-----	-4					
Ecology Letter to City Council, placed on website and notice sent to interested parties	16-25						
Briefing on Ecology's Conditional Approval	28						
Letter to Ecology Requesting Extension of 30-Day Response	29						
Staff completes additional analysis	29	-7					
Second Briefing to Council		11					
Third Briefing to Council		25					
Publication of Open House & Public Comment Notice in LSJ		27					
Public Open House & Public Comments to Council			11				
PLACEHOLDER – Subcommittee meetings if requested as open forums			12-22				
Council Discussion of Alternative Language			25				
Attorney Review of Alternative Language			29	-5			
Notice Council Public Meeting/Public Hearing in LSJ				3			
Council PM/PH and Adoption of Alternative Language and Response to Ecology				8			
Response Letter Sent to Ecology				12			
Address Additional Comments from Ecology							
Submit Final Package to Commerce							

From: [Burcar, Joe \(ECY\)](#)
To: [Karen E. Watkins](#); [Becky Ableman](#)
Cc: [Tallent, Geoff \(ECY\)](#); [Anderson, Paul S. - NWRO SEA \(ECY\)](#); [Bails, Jamie L \(DFW\)](#); sam@GSKLegal.pro; [Dan Nickel](#)
Subject: RE: Lake Stevens SMP - Council Public Hearing Packet
Date: Monday, November 21, 2011 11:09:09 AM
Attachments: [image001.png](#)

Hi Karen and Becky,

Please find the following comments related to the recent changes listed within the 11-21-2011 draft of the SMP. I have not included any comments related to wetlands as our wetland specialist is just returning to the office today, after being gone for last two weeks. I will attempt to discuss the wetland situation with our wetland specialist today, but I am not confident that there will be sufficient to come up with a solution prior to the Councils meeting tonight. Therefore, please pass along to your Council our agencies commitment to resolve the wetland concerns (i.e. requirement for wetland delineation adjacent to heavily developed shoreline areas at the north end of the lake) either prior to the City's local adoption (November 28), or through Ecology's review and approval process.

I would also like to pass along a sincere appreciation for all the hard-work on this SMP-update by all parties involved. With the exception of a few inconsistencies mainly isolated to the **Shoreline Modifications** section of the SMP (described below), the current draft of the SMP represents a successful effort by your community in updating your shoreline management plan. I look forward to continuing to work with the City through the final adoption of this SMP.

Best regards,

-Joe

Comments on November 21, 2011 amendments:

General Comments related to 11/21/2011 staff report:

Covered Moorage - Related to the Councils consideration of 'covered moorage', in addition to appropriate size and location criteria to minimize aesthetic impacts and satisfy no net loss requirements, Ecology suggest that the City check-in with Washington Department of Fish and Wildlife (WDFW) to make sure that they can approve covered moorage proposals as envisioned by your council. A check-in with WDFW would ensure consistent with a recommendation from the City's Shoreline Inventory/Characterization Report (Watershed & Makers, 2010a; 47), which recommends that SMP Pier/Dock standards provide; "...clear dimensional standards for new piers and replacement/modified piers, that are consistent with Washington Department of Fish & Wildlife (WDFW) practices on the lake".

Side-yard additions - The Councils request to allow up to 200 square foot additions to the side-yard of "existing residential" structure located within a setback or buffer, is understood to not create significant impacts. This conclusion is based on an amendment to the Cumulative Impact Assessment, concluding that only 5-lots will have the potential to

take advantage of this provision, and the fact that the impervious surface limits within the SMP will still apply. With this said, we do recommend that the City include in this provision appropriate mitigation sequencing steps to require applicants to first consider locating the expansion outside of applicable setbacks/buffers. If because of lot constraints, the expansion cannot be located outside of setback/buffer areas, then the limited additions to side-yard areas seem appropriate with appropriate mitigation and within other limits of the SMP, such as maximum impervious surface ratios.

Chapter 4 Shoreline Modification Provisions

Ecology has provided previous comments to Shoreline Modification sections of the Lake Stevens SMP. The following comments focus on recent amendments included within 11-21-2011 version of the SMP, but are also consistent with previous comments provided to the City on earlier versions of the SMP (see email from April 20, 2011 – below). The following comments are primarily focused on inconsistency between **Shoreline Stabilization** and **Overwater Structure** SMP provisions and the applicable sections of the SMP-Guidelines provided in WAC 173-26.

C. Policies and Regulations

2. Shoreline Stabilization (Including Bulkheads)

Page 55, a. Applicability (Maintenance Repair, and Replacement) – In addition to the reference to WAC 173-27-040(2)(b), **it is equally important for the SMP to also recognize other relevant subsection, including;** (1) *“Application and Interpretation of exemptions”* (a) *“Exemptions shall be construed narrowly...”* and (b) *“An exemption from the substantial development permit process is not an exemption from compliance with the act or the local master program, nor from any other regulatory requirements...”*

Page 55, b. Policies – Policy #1 as written, is not consistent with **Shoreline Stabilization** provisions within WAC 173-26-231(3)(a) of the SMP-Guidelines. To ensure consistency with the SMP-Guidelines the City should incorporate the following amendments:

1. *“Soft stabilization”* measures should be listed as *“preferred”* over *“hybrid”* (structural measures) and;
2. References to protection of an *“allowed primary structure or a legally existing structure”* are not consistent with the SMP-Guidelines and should be amended to use the same language as the WAC 173-26-231(3)(a) allowing for consideration of new shoreline stabilization only to protect *“existing primary structures”*, or for replacement when there is a demonstrated need to protect *“principle uses or structures”*. The existing language in the City’s SMP is too broad and will not be approved by Ecology.

Page 58, c. Regulations (Repair, Maintenance and Replacement) – Standard #13 as written is not consistent with the SMP-Guidelines as a ‘demonstrated need’ to protect principle uses or structures is required in order to justify either replacement or expansion of an existing stabilization structure.

3. Over-Water Structures – Including Piers and Docks, Floats, and Boardwalks

Page 63 & 64, c. Regulations (General Regulations for Private and Public Structures) - Please see Ecology previous comments (email dated April 20, 2011 – provided below) related to

Over-Water Structures standards within the SMP. Ecology's previous comments reiterate the overall intent of **Overwater Structures** to provide moorage in support of water-dependent uses, for which the SMP-Guidelines emphasize the need to minimize the size of overwater structures to the minimum size necessary to serve the specific moorage needs of the jurisdiction. Generally, the following standards are too broad and do not provide sufficient side-boards to ensure that the size of overwater structures are minimized through implementation of predictable SMP standards. More specifically;

1. Regulation #19 (ADA provisions) – Based on a 2003 U.S Access Board publication titled *Accessible Boating Facilities*, five feet of pier width is shown to be sufficient to support ADA needs. However, Ecology has allowed other jurisdictions the flexibility to increase pier widths up to six feet to accommodate ADA access. Therefore, the City should identify a specific limit to overwater structure width that is less than six feet to accommodate ADA access.

2. Regulation #20 (Alternative Compliance) – similar to the ADA-comments provided above, the "*Alternative Compliance*" provision within the SMP cannot allow for unlimited flexibility related to overwater structure width. Ecology has allowed other jurisdictions to build-in limited (well defined) administrative flexibility into pier/dock widths for replacement of existing overwater structures. Within the City of Kirkland, Sammamish and Renton's approved SMP's, administrative 'alternative compliance' limits pier/dock width to no wider than six-feet for components of a overwater structure that is located more than 30-feet water-ward of the shoreline edge. To protect critical nearshore areas, these SMP's restrict pier/dock width to four feet for components of the overwater structure located within 30-feet of the shoreline edge.

In other words, the alternative compliance flexibility should not apply to the critical nearshore areas within 30-feet of the shoreline edge, for which new and replacement pier/dock structures should be limited to four feet in width, unless ADA accommodations are necessary for the property owner, in which case the width can be expanded up to six feet. In summary alternative compliance cannot be approved as written, but could be amended to allow replacement of overwater structures to maintain the same square footage as the original structure, but must be re-oriented the structure to reduce pier width to no greater than four feet within the first 30-feet water-ward of the shoreline edge and up to six feet for other sections of the structure in deeper water.

Page 68, c. Regulations (New Private, Non-Commercial Piers) - SMP standard #24.d (width) "*Exception*" allowing for expansion of the width of a new pier from four feet to six feet within the first 30-feet water-ward of the shoreline edge, is not consistent with the SMP Guidelines and cannot be approved as written. The SMP Guidelines require that the size of new and replacement overwater structures be reduced to the minimum necessary to serve the moorage use of the structure, for which Ecology is not aware of a justification supporting the need for wider structures (i.e., more than four feet) necessary to provide (private single-family) access to boat moorage, with one exception described above related to ADA accommodation.

Page 68, c. Regulations (Replacement of Existing Pier or Dock) - SMP standard #25 (as amended 11-21-2011) to allow 100% replacement for "*square footage and dimensions*" is

not consistent with the SMP Guidelines and cannot be approved as written. As referenced above (Regulation #20 Alternative Compliance), Ecology has allowed for limited flexibility to be applied to pier/dock replacements to allow a property owner to maintain the same overwater structure area, but cannot support allowing the same pier/dock “*dimensions*” when the structure is going to be completely replaced. It is important to recognize that Ecology is supportive of on-going ‘repair’ of existing overwater structures, as long as a clear threshold is identified within the SMP to trigger compliance with ‘replacement’ standards when cumulative repairs reach a point where the existing structure is in all practical purposes being replaced. Many jurisdictions’ utilize a percentage of decking or pile replacement as a threshold to distinguish between ‘repair’ and ‘replacement’.

Chapter 5 Shoreline Use Provisions

C. Shoreline Use Policies and Regulations - 8. Residential Development

Page 95, b. Policies – Policy #1 as written is not consistent with the Shoreline Management Act (RCW 90.58.020) or the SMP-Guidelines (WAC 173-26-241(3)(j)) and will need to be amended to include all relevant components of the policy statement. The reference in the current SMP to single-family residences as a “*preferred use*” is incomplete and does not include all relevant language from the SMA qualifying that a single-family residential use is only considered a priority use, when developed in a manner consistent with the control of pollution and prevention of damage to the natural environment. See WAC 173-26-241(3)(j) stating:

Single-family residences are the most common form of shoreline development and are identified as a priority use when developed in a manner consistent with control of pollution and prevention of damage to the natural environment. Without proper management, single-family residential use can cause significant damage to the shoreline area through cumulative impacts from shoreline armoring, storm water runoff, septic systems, introduction of pollutants, and vegetation modification and removal.

Chapter 6 Definitions

(Page 109) The definition of “*Accessory Use*” is inappropriate in that it includes reference to “*lawns associated with residential development*”. “*Lawns*” are not ‘structures’, they are not intrinsic to the ‘primary use’, and they are not a ‘normal appurtenances’ to a single family use. Therefore, “*Lawns*” cannot be protected or exempted from review and are not preferred under the SMA. This definition should either be removed or amended to distinguish an “*Accessory use*” from structures or appurtenances which are intrinsic to a residential shoreline use.

(Page 115) The definition of “*Existing Uses*” is also inappropriate, in that it includes “*Accessory uses*”, for which inconsistency with the SMA is described above. Similar to the comment above related to the “*Accessory uses*” definition, the “*Existing Uses*” definition, should also be removed or revised and cannot be approved as part of the SMP as currently written.

(Page 127) The “*Water-Dependent Use*” definition includes the following qualifying statement; “*but not limited to*”. This change to the definition is not consistent with the “*Water-Dependent Use*” definition provided in the SMP-Guidelines at WAC 173-26-020(39) and cannot be approved within the SMP as written.

jATTACHMENT 5

The following changes are required to comply with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III);

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [<u>underline-additions</u> ; strikethrough-deletions]	ECOLOGY - DISCUSSION/RATIONAL	CITY OF LAKE STEVENS RESPONSE
1	Chapter 2 – Environment Designations Section B. Shoreline Environment Designation Maps	Shoreline Jurisdiction	The Shoreline Environment Designation Maps can be found in Appendix A. Pursuant to WAC 173-26-211, the maps illustrate the shoreline environment designations that apply to all shorelines of the state within the City of Lake Stevens' jurisdiction. The lateral extent of the shoreline jurisdiction shall be determined for specific cases based on the location of the ordinary high water mark (OHWM), <u>effective</u> floodway, and presence of associated wetlands. The maps should be used in conjunction with the Environment Designation tables in Section C below. In the event of a mapping error, the City will rely upon the boundary descriptions and the criteria in Section C below.	<i>The required change is necessary to ensure appropriate reference to the FEMA "Floodway" which may change as a function of FEMA's issuance to updated FIRM maps.</i> <i>Note: the City provides reference in Chapter 3, Section B (Policies and Regulations), 5 (Flood Hazard Reductions), c. (Regulations), 1.b. to the "Flood Insurance Study for Snohomish County, Washington and incorporated areas" dated November 8, 1999.</i>	<i>This change should <u>not</u> have any effect on implementation of the SMP, but only ensures consistency with FEMA floodway requirements.</i>
2	Chapter 4 – Shoreline Modifications Section C.3.c Overwater Structure (OWS) Regulation (Pg. 56)	Pier/Dock Alternative Design	20. Alternative Design. The City shall approve new, replaced or additions to docks different from the standards below subject to Washington Department of Fish and Wildlife approval of an alternate project design of a width up to 6 feet for new docks or up to existing width on legally existing docks in the first 30 feet, <u>limited to the following features:</u> size of pilings, replacement area, and/or different decking requirements subject to a Hydraulic Permit Approval. With submittal of a building permit, the applicant shall provide documentation that the Washington Department of Fish and Wildlife has approved the alternative proposal design.	<i>In order to maintain consistency with the planning assumptions described within the City's Cumulative Impact Assessment and to ensure consistency with the No Net Loss (NNL) policy goal of the SMP-Guidelines, flexibility related to the alternative design provision with the City's SMP, must be limited to Pier/Dock elements that commonly vary through use of a range of similar dock construction materials. Defining the limits to this flexibility will ensure that the City's ability to satisfy NNL requirements (WAC 173-26-186 (8)) are not compromised. Further, shifting the authority to WDFW to adjust <u>any</u> SMP standard places an unreasonable burden on WDFW staff, as they may be asked to waive SMP-standards outside of their agencies regulatory focus/authority, which would undermine the City and Ecology's obligation to maintain consistency with SMA/ SMP-Guideline implementation obligations.</i> <i>Therefore, the identified amendment is necessary to limit WDFW consideration of alternative project design to project specific elements such as piling material/size and decking requirements.</i>	<i>In 5/23/11 proposed SMP, this was under new dock width (21.d.i) and came from the May 10, 2011 meeting at Fish & Wildlife with Ecology, City staff and City consultant. It was eventually moved to a separate section and titled Alternative Design. After the meeting, Ecology began to talk internally about the 4 ft width on all docks w/i 30 feet and they have remained strong on this for all jurisdictions in the process including Snohomish County. In an 11/21/11 email from Ecology (attached), they specifically stated the section as proposed could not be approved.</i> <i>This change should <u>not</u> have a major negative effect on the use of the shoreline as it is mainly removing the specific width, but does not necessarily exclude anything approved by the HPA.</i>
3	Chapter 4 – Shoreline Modifications Section C.3.c OWS Regulation (Pg. 60)	Pier/Dock Replacement	<u>Replacement of Existing Private Pier or Dock</u> 25. Proposals involving replacement of the entire private pier or dock, or 50 percent or more of the pier-support piles can be replaced up to 100% of the size-area (square footage and dimension) of the existing pier or dock and shall comply with the following standards: a. Decking: All replacement piers must include decking with a minimum of 40 percent open space as described in subsection c.24.a. above. b. Replacement piles must be sized as described above under subsection 24.b, and must achieve the minimum 12-foot spacing to the extent allowed by site-specific engineering or design considerations. <u>c. Width shall comply with "New Private, Non-Commercial Piers" standards (see Chapter 4 Section C.3.c.24.d).</u>	<i>The required changes are necessary to satisfy no net loss requirements, mitigate impacts to shoreline ecologic functions as recommended within the City's Shoreline Analysis and Cumulative Impact Analysis (Watershed & Makers, 2010 and 2011) and to ensure consistency with Pier/Dock standards (173-26-231.3.b) from the SMP Guidelines.</i> <i>The SMP-Guidelines (WAC 173-26-231.3.b) characterize Pier/Docks as a Shoreline Modification, which should be restricted to the minimum size necessary and "designed and constructed to avoid or, if that is not possible, to minimize and mitigate the impacts to ecological functions" (Ecology, 2011). Pier/dock width greater than 4-feet within "nearshore" areas have not been shown to be consistent with SMP-Guideline requirements associated with Protection of Ecological Functions (WAC 173-26-201-2-c) and Environmental Mitigation (Mitigation Sequencing) at WAC 173-26-201 (2) (e). Mitigation Sequencing requires that Master programs first <u>avoid impacts</u>, then for those impacts that cannot be avoided, jurisdictions are to minimize impacts. Finally remaining impacts which could not be avoided, or minimized, are to be <u>mitigated</u> as the third and final step in the sequence (Ecology, 2011). As analyzed and provided within the City's Shoreline Inventory/Characterization Report (Watershed & Makers, 2010), the City's Cumulative Impact Assessment (Watershed & Makers, 2011) and the Snohomish Basin Salmon Conservation Plan (SBSRF, 2005) existing habitat is recommended for "protection" and/ or "restoration" through reduction of overwater cover and in-water structures. The Shoreline Inventory/Characterization Report (Watershed & Makers, 2010; 47) recommends that SMP Pier/Dock standards provide clear "replacement" and "repair" definitions and standards consistent with the SMP-Guideline section WAC 173-26-231-3b and "clear dimensional standards for new piers and replacement/modified piers", that are consistent with Washington Department of Fish & Wildlife (WDFW) practices on the lake.</i> <i>The City's Cumulative Impact Assessment (Watershed & Makers, 2011) cites adverse affects to shoreline ecological functions associated with Pier/Dock construction and provides a conclusion that the SMP will satisfy the No Net Loss of Ecological Functions requirement, when ecological improvements (such as use of transparent grating,</i>	<i>Change in first paragraph takes it back to original 5/23/11 SMP proposal. The change was made using the proposed language suggested by Urban Concepts in their April 8, 2011 comment letter (section at that time was Ch 4, 3.c.22).</i> <i>In an 11/21/11 email from Ecology (attached), they specifically stated the section as proposed could not be approved.</i> <i>New "c" references back to:</i> d. Width. i. The maximum width of a dock walkway is 4 feet for the first 30 feet from shore and up to 6 feet for portions of walkways which extend more than 30 feet from the shore. ii. The maximum width of ells and floats is 6 feet. Ells and floats shall be positioned beyond 30 feet from shore. iii. Any additional fingers must be no wider than 4 feet if beyond 30 feet from shore. iv. The maximum width of a ramp connecting a dock to a float is 4 feet. <i>This change is being required on all more recent SMPs, including Snohomish County's SMP, and Ecology is stating they will be consistent throughout future SMPs.</i>

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [<u>underline-additions</u> ; strike-through-deletions]	ECOLOGY - DISCUSSION/RATIONAL	CITY OF LAKE STEVENS RESPONSE
				<i>reduction of overwater/in-water structure) are incorporated into replacement dock proposals. Therefore, the required change is necessary to implement the recommendations of the City's supporting analysis and to ensure compliance with applicable SMP-Guideline requirements.</i>	
4	Chapter 4 – Shoreline Modifications Section C.3.c OWS Regulation (Pg. 60)	Pier/Dock Additions	27. When proposed additions to a private residential pier result in a pier that exceeds the maximum total length or width allowances for new docks as described in c.24 above, the addition may be proposed under a Variance application and subject to the following provisions: a. The applicant must remove any in-water structures rendered obsolete by the addition; b. The additional length of walkway or ell must be no wider than <u>4 feet within the first 30 feet from shore and up to 6 feet for walkway or ell sections located more than 30 feet from shore</u> ; c. The decking of all new pier elements include decking with a minimum of 40 percent open space as described in subsection c.24.a. above; and d. Any proposed new piles must comply with standards under subsection c.24.b. above.	Same justification as item #3 above.	Although not directly spelled out in the 11/21/11 email from Ecology, the justification would be the same as per the email. This change is being required on all more recent SMPs, including Snohomish County's SMP, and Ecology is stating they will be consistent throughout future SMPs.
5	Chapter 5 – Use Policies & Regulations Provision C.8.a. Residential Use, Applicability definition (Pg. 84)	Residential Applicability definition	8. Residential Development a. Applicability Residential development means one or more buildings, <u>or structures, lots, parcels or portions thereof</u> which are designed for and used or intended to be used to provide a place of abode, including single-family residences, duplexes, other detached dwellings, floating homes , multi-family residences, mobile home parks, residential subdivisions, residential short subdivisions, and planned residential development, together with <u>normal appurtenances common to a single-family residence pursuant to WAC 173-27-040 (2) (g). accessory uses and structures normally applicable to residential uses, including, but not limited to, garages, sheds, tennis courts, swimming pools, parking areas, fences, cabanas, saunas, and guest cottages.</u> Residential development does not include hotels, motels, or any other type of overnight or transient housing or camping facilities.	<i>The definition for "Residential Use" provided through the "Applicability" statement in the City's SMP is too broad and conflicts with other definitions provided in the SMP. Therefore, the proposed provision is inconsistent with the Residential Use description in the SMP-Guidelines at WAC 173-26-241. On page 98 of the SMP, the City has defined "Appurtenance" consistent with WAC 173-27-040(2) (g). However, as noted above the subject provision provides a much broader description of Residential Uses, which includes reference to "accessory uses", which again broadens the potential application of Residential Uses in a manner that is not consistent with WAC 173-27, or applicable sections of the SMP Guidelines. Broad applicant of undefined Residential Use elements beyond the scope of "normal appurtenance", could undermine cumulative impact assumptions anticipated by both the SMA and supporting materials relied upon for the local SMP-update. Cumulative impacts to shoreline ecological functions must be considered as part of this SMP-update. Therefore, Residential Use elements are authorized to include "normal appurtenances" (WAC 173-27), but cannot be broadly defined, as anticipation of the scope and intensity of future development is necessary to inform the cumulative impact assessment and overall assessment of no net loss resulting from implementation of the updated SMP. Therefore, this required change is necessary to appropriately define the scope and description of "Residential Uses" and "normal appurtenances".</i>	This language has been in the proposed SMP since May 23, 2011. The new language refers to the following definition from the WAC: <i>(g) Construction on shorelands by an owner, lessee or contract purchaser of a single-family residence for their own use or for the use of their family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to chapter 90.58 RCW. "Single-family residence" means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. On a statewide basis, normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. Local circumstances may dictate additional interpretations of normal appurtenances which shall be set forth and regulated within the applicable master program. Construction authorized under this exemption shall be located landward of the ordinary high water mark;</i> This change should not have a negative effect on shoreline development.
6	Chapter 5 – Use Policies/Regulation Provision C.8.c.3.a.i (Pg. 85)	New Residential Setbacks	3. New residential development, including new structures, new pavement, and additions, within shoreline jurisdiction on lakes shall adhere to the following standards: a. Setbacks: i. New buildings: Set back all covered or enclosed structures <u>the average of the setbacks of existing houses on adjacent lots on both sides of the subject parcel</u> , with a standard minimum setback, which is a lake setback of <u>60 feet from the OHWM (consisting of 50 feet from the OHWM plus an additional 10 foot</u>	<i>The subject provision, as proposed does not provide any limits or necessary details describing how the Shoreline Administrator would evaluate the need to waive or reduce shoreline setback standards. Further, the subject provision does not include a restriction to limit new structures from being constructed waterward of existing adjacent structures on neighboring lots. Therefore, the required changes are necessary to ensure consistency with the City's Cumulative Impact Analysis related to anticipate impacts resulting from future shoreline development. The change is also necessary to ensure consistency with the City's stated Shoreline Residential Management Policies (Chapter 2, Section C.4.c.), General Use Policies (Chapter 5, Section C.1.b.), Residential Use Policies (Chapter 5,</i>	The revised language was originally in the 5/23/12 proposed SMP with the sentence on the Shoreline Administrator finding. The Citizen Group's attorney, Sam Rodabough proposed removal of the language referring to the average setback to the adjacent houses in his 11/19/12 revisions. Ecology is just going back to the originally proposed language based on the use of the adjacent lots in the Cumulative Impact Analysis. Because of this language, Ecology did not have a problem with the additional development within the side yard. The Watershed Company by phone on 10/19/12 stated, the removal

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [<u>underline-additions</u> ; strike-through-deletions]	ECOLOGY - DISCUSSION/RATIONAL	CITY OF LAKE STEVENS RESPONSE
			<p>building setback). Where the Shoreline Administrator finds that an existing site does not provide sufficient area to locate the residence entirely landward of this setback, the Shoreline Administrator may allow the residence to be located closer to the OHWM, provided all other provisions of this SMP are met and impacts are mitigated.</p>	<p>Section C.8.b 1-7), or applicable SMP-Guideline standards (No Net Loss 173-26-186, Residential Use 173-26-241.3.j).</p> <p>As referenced above, a provision intended to limit construction of new residential structures waterward of adjacent structures on neighboring parcels, was included in previous drafts of the City's updated SMP. However, this provision limiting waterward migration of residential structures was not included in the locally approved SMP (Ord. #856). The identified change is necessary to ensure that the City's SMP is consistent with the policies listed above and the City's Final Cumulative Impact Analysis (Watershed and Makers, 2011). The City's analysis reiterate the importance of preserving shoreline setbacks by limiting waterward migration of residential structures closer to the shoreline to maintaining shoreline ecological functions to satisfy the no net loss goal of the master program update. The analysis refers to the "Average Setback" within the Shoreline Residential environment surrounding Lake Stevens, as greater than 60-feet, and provides the following conclusion related to potential cumulative impacts related to redevelopment potential of existing residential structures around the lake:</p> <p>"Although it would be possible, in some instances, for residences to be relocated closer to the shoreline than their existing condition, they would not be allowed further waterward than the greater of 60 feet or the average of their two adjacent structures. Presumably, this will continue to maintain an average setback greater than 60 feet, thereby minimizing the likelihood of additional degradation of ecological functions." (Watershed and Makers, 2011:26).</p> <p>Therefore, in order to ensure consistency with the City's analysis of no net loss, the required change is necessary to manage waterward migration through redevelopment of residential structures to maintain consistency with SMP-Guideline requirements.</p>	<p>of the adjacent requirement could still meet the CIA. However, they would need to provide proof of this and the sentence used by Ecology as proof of the adjacency requirement is necessary, would need to be modified.</p> <p>In order to change this language back, The Watershed Company would need to change CIA and the City would have to make sure the language meets the other sections of code referenced by Ecology.</p> <p>11/20/12 – Phone conference between Ecology, Watershed & City discussed how this recommended change might be removed. The outcome was additional analysis of all shoreline properties with setbacks, where roads are located, and other justification to show that the lake would retain the 60 foot setback and any loss of frontage would not negatively affect the ecological function of the lake.</p> <p>City would complete analysis for Watershed to make changes to the Cumulative Impacts Analysis. City and Watershed would be in contact with Ecology as information is collected. Any alternative recommendations could be presented at a Council workshop or briefing.</p> <p>Additional Analysis does not guarantee Ecology will agree to removal of this required revision, but provides additional information for Ecology to review with the Shoreline Management Act and SMP Guidelines.</p>
7	Chapter 5 – Use Policies/Regulation Provision C.8.c.3.d. (Pg. 87)	New Residential Development Patio	d. If there is no bulkhead, or if a bulkhead is removed, a small waterfront deck or patio can be placed <u>along within</u> the shoreline <u>setback</u> provided <u>the property owner agrees to not construct a bulkhead or install any hard shoreline stabilization to protect the deck in the future, and:</u>	This required change is necessary to ensure that a property owner understands that a patio or deck constructed under this provision cannot be protected in the future with a bulkhead or hard stabilization. Therefore, the patio/deck should be installed at an appropriate location far enough away from the shoreline edge to not need protection in the future.	This change is consistent with all comments from Ecology and has not been a concern by residents, although keeping current bulkheads have been a concern with residents. This should <u>not</u> be a major effect as the regulations already require no bulkhead or removal of bulkhead to get the incentive.
8	Chapter 5 – Use Policies/Regulation Provision C.8.c.3.e. (Pg. 87)	New Residential Development Patio	e. All property owners who obtain approval for a waterfront deck or patio in exchange for removing a bulkhead and retaining or planting native vegetation must prepare, and agree to <u>not construct a bulkhead or install hard shoreline stabilization to protect the deck in the future, and</u> adhere to, a shoreline vegetation management plan prepared by a qualified professional and approved by the Shoreline Administrator that:	Same rational as provided above under Item #7.	Same as for Response to #7 above.
9	Chapter 5 – Use Policies/Regulation Provision C.8.c.4. (Pg. 88)	New Residential Development Vegetation Retention	4. For new development on previously undeveloped lots, any existing native vegetation shall be retained along the shoreline to <u>a minimum of 50-feet 20-foot upland</u> from the OHWM. If little or no native vegetation exists on the previously undeveloped lot, native vegetation shall be planted along the shoreline to 20 feet from the OHWM. 25 percent of the required vegetated area can be cleared or thinned for view maintenance and waterfront access, provided 75 percent of the area remains vegetated. Invasive species may be removed, vegetation trimmed, and trees —limbed upll from the ground to provide views. In the 25 percent cleared area, pathways for access to the water are allowed.	<p>The City has <u>not</u> demonstrated that limiting vegetation retention to 20-feet upland of the OHWM will adequately protect water quality or habitat shoreline ecological functions pursuant to the SMP-Guideline at WAC 173-26-201(3) (d) (i). The City's Critical Areas Ordinance (CAO) list Lake Stevens as a "Fish and Wildlife Habitat Conservation Area" (FWHCA), for which buffers range from 50' to 150' upland of the OHWM. Further, the City's SMP's must include policies and regulations designed to achieve no net loss of shoreline ecological functions (WAC 173-26-186 (8) (b)).</p> <p>This change is required to ensure compliance with SMP-Guideline requirements related to Governing Principles of the Guidelines within WAC 173-26-186 (No Net Loss), Basic Concepts within WAC 173-26-201-2 (Use of Scientific/Technical Information, Adoption of Policies/Regulations and Protection of Ecological Functions)</p>	<p>This change will only affect three undeveloped lots:</p> <ul style="list-style-type: none"> • 11826 & 11830 7th Street NE (0.46 & 0.2 ac) – same owner of both parcels; parcels <100 feet from shoreline with vegetation along shoreline. Houses could be built on front of lots probably w/o affecting shoreline vegetation. • 11325 Machias Cutoff (~.75 ac) –SW corner owned and shows up as part of same parcel on SE corner of intersection. It could become a separate parcel as a road (S. Lake Stevens Rd) divides it from the house on the SE corner. Approx 250 feet long, one tree on shoreline, so nothing to protect, but would need to replant within 20 feet from OHWM. • 1125 Springbrook Road (1.5 ac). Approx 350 long, a lot of shoreline vegetation. Area for development available with leaving 50 feet from shore intact with existing vegetation. <p>There is one other undeveloped parcel, but it is across the road from</p>

jATTACHMENT 5

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [<u>underline-additions</u> ; strike-through-deletions]	ECOLOGY - DISCUSSION/RATIONAL	CITY OF LAKE STEVENS RESPONSE
10	Chapter 5 – Use Policies/Regulation Provision C.8.c.7. (Pg. 89)	New Residential Development Creation of New Lots	<p>7. The creation of new residential lots within shoreline jurisdiction on lakes shall be prohibited unless the applicant demonstrates that all of the provisions of this SMP, including setback and size restrictions, can be met on the proposed lot. Specifically, it must be demonstrated that:</p> <ul style="list-style-type: none"> a. The residence can be built in conformance with all applicable setbacks and development standards in this SMP. b. Adequate water, sewer, road access, and utilities can be provided. c. The intensity of development is consistent with the City's Comprehensive Plan. d. The development will not cause flood or geological hazard to itself or other properties. <u>e. Land-division creating four or more new parcels shall provide Public Access (see Chapter 2 Section 4.c.5. and Chapter 3 Section B.7.).</u> <p>In addition, new residential development on new lots that contain intact native vegetation shall conform to the regulations of subsection c.4 above. (See also vegetation conservation standards in Chapter 3 Section B.11).</p>	<p><i>This required change is necessary to ensure internal consistency between the subject provision and a "Public Access" related provision within Chapter 3 – Section B.7., and to satisfy SMP-Guideline requirements related to Residential subdivision that create four or more new parcels (WAC 173-26-241.3.j</i></p>	<p>the lake and the road would stop any shoreline regulations:</p> <ul style="list-style-type: none"> • 11517 N. Lakeshore Drive (0.2 ac) <p>11/20/12 – City discussed this recommended change with Ecology. With the justification of the few properties that would be affected, City can propose an alternative change to Ecology with the above justification to leave at 20 feet and not change to 50 feet. Ecology would compare with the Shoreline Management Act and SMP Guidelines to determine whether to retain the required revision. However Ecology did state that the reverse is true that the 50 feet would affect so few properties, there isn't much of a reason to go to the 20 feet.</p> <p>As noted, the City's adopted SMP does have this language in Chapter 2, Section 4.c.5 and Chapter 3, Section B.7.1; however, the City's language uses "should", not the proposed "shall". The City could propose to keep the proposed language with a change from "shall" to "should" to be consistent with other sections of SMP.</p> <p>Chapter 2:</p> <ul style="list-style-type: none"> 5. New multi-family development and new subdivisions of land into more than four parcels should provide public access, which could include benches for viewing in a public right of way, community access, or similar types of public access. <p>Chapter 3</p> <ul style="list-style-type: none"> b. Policies <ul style="list-style-type: none"> 1. Public access should be considered in the review of all private and public developments with impacts on public access and related to the size of the impacts and with the exception of the following: <ul style="list-style-type: none"> a. Single-family residential including one- and two-family dwelling units and residential subdivisions of four lots or less and their accessory structures (e.g., docks, garages, shoreline modification, etc.); or

References:

Watershed & Makers 2010, The Watershed Company and Makers. February 2010. DRAFT Shoreline Analysis Report for the City of Lake Stevens Shorelines: Lake Stevens, Catherine Creek, and Little Pilchuck Creek. Prepared for the City of Lake Stevens Planning and Community Development Department, Lake Stevens, WA.

Watershed & Makers 2011, The Watershed Company and Makers. December 2011. Cumulative Impacts Analysis for the City of Lake Stevens Shorelines: Lake Stevens, Catherine Creek, and Little Pilchuck Creek. Prepared for the City of Lake Stevens Planning and Community Development Department, Lake Stevens, WA.

Snohomish Basin Salmon Recovery Forum (WRIA 7). 2005. Snohomish River Basin Salmon Conservation Plan Final. June 2005.

Department of Ecology. 2011. Shoreline Master Program Handbook; SMP Updates Piers, Docks and other structures. Accessed at: http://www.ecy.wa.gov/programs/sea/shorelines/smp/handbook/pdf/Piers_docks_guidance_1-10-11.pdf



WESTERN WASHINGTON
GROWTH MANAGEMENT HEARINGS
BOARD

DIGEST OF DECISIONS

FIFTH EDITION – through August 15, 2009

- The most effective solutions to GMA issues are those developed at the local level as long as those solutions fall within the parameters of the GMA. Mediation and settlement procedures used by the parties are commended. *Eldridge v. Port Townsend* 96-2-0029 (FDO, 2-5-97)

SHORELINE MANAGEMENT ACT (SMA)

- *CRSP/Jepson v. Whatcom County/Dept. of Ecology*, Case No. 08-2-0031, Final Decision & Order (April 20, 2009)[In response to assertions that the County failed to adhere to the SMA public participation requirements because it adopted Ecology's revisions to the Draft SMP without any public participation. The challenge was grounded in the activity that occurred *after* the Revised SMP was returned to the County from Ecology, and, in that regard the Board stated]:

Although Petitioners cite GMA-based public participation cases, this statute [RCW 36.70A.480] specifically states that it is the procedures of RCW 90.58 which guide the adoption of SMPs, not those of the GMA. Thus, the interpretation of GMA-based public participation requirements, although potentially helpful, is not controlling. Therefore, the Board looks to RCW 90.58.090 for the procedures to be followed in the approval or amendment of a shoreline master program. FDO, at 7.

The Board notes that neither the RCW nor the WAC sets forth any requirements for public input on a Revised SMP returned by Ecology to the originating jurisdiction. In accordance with RCW 90.58.090, after Ecology has conducted its review of a submitted SMP, it may do one of three things [Ecology selected Option 3 (Recommended specific changes) and Whatcom selected Option 2 (Submit an alternative proposal); with the submittal of an alternative Ecology has several Options, and it selected Option 1 (alternative was consistent/approval SMP) ... The language of RCW 90.58.090(2)(e)(ii) is instructive here. If an alternative proposal is returned to Ecology, there is no language in the statute requiring Ecology to undergo additional public participation; it is free to approve the alternative SMP if it finds consistency. However, it is specifically noted that if Ecology deems the alternative inconsistent, it may return an alternative for *public and agency review*. Similar language is not present in RCW 90.58.090(e)(i) – which simply permits a local government to agree to Ecology's proposed changes. In addition, the Board notes that RCW 90.58.090 has no provision requiring

the local government to subject a Revised SMP that has been returned from Ecology for additional public scrutiny and comment as to those revisions made by Ecology. Similarly, WAC 173-26-120 only addresses the local government's obligations up and until submittal of a proposed SMP to Ecology. Based on a plain reading of the SMA, there is nothing that requires additional public review of a Revised SMP that has been returned to the originating jurisdiction by Ecology if a jurisdiction decides to agree to Ecology's recommendations. FDO, at 9-10.

The Board is also mindful of the provision in RCW 90.58.130 that requires Ecology and the County to provide the public with "a full opportunity for involvement in both [the] development and implementation" of master programs, and to "not only invite but actively encourage participation". In addition, the Board interprets the language in WAC 173-26-090 to provide for "early and continuous public participation" as applying throughout the adoption process. FDO, at 11.

- The regulations at issue for [Petitioner] in this case relate primarily to the County's adoption of Channel Migration Zones (CMZs) for four of its most prominent rivers. The Board notes all of these rivers are within the jurisdiction of the SMA and therefore land located within 200 feet of either side of the rivers falls under the jurisdiction of the SMA. Therefore, despite the lack of a mandate and the pending motion for reconsideration [in the case of *Futurewise, et al v. WWGMHB*, 162 Wn.2d 242 (2008)], this Board will adhere to the Court's unambiguous holding that critical areas within the shoreline are regulated by the SMA. Thus, for the area of the CMZ that is within the 200 foot shoreline jurisdiction, the Board views the County's action effectively as a segment of its SMP update which is subject to review and approval by Ecology. However ... CMZs are not limited to a 200 foot area bordering either side of a river. Rather CMZs expand outward from the river's edge and encompass land in excess of the area within the SMA's regulatory boundaries. For the area of the CMZs that are located outside the 200 foot shoreline jurisdiction, these are critical areas squarely within the GMA's jurisdiction pursuant to RCW 36.70A.060, .170, and .172. As such, this Board has jurisdiction to review the adopted regulations for compliance with the GMA. *OSF/CPCA v. Jefferson County*, Case No. 08-2-0029c, FDO, at 16-17 (Nov. 19, 2008).
- Pursuant to RCW 36.70A.280(1)(a), a growth management hearings board has jurisdiction to determine compliance with the Shoreline Management Act only "as it relates to the adoption of Shoreline Master Program or amendments thereto." Where the petition for review alleges only violations of the Shoreline Management Act but the county's

- challenged actions did not involve amending its Shoreline Master Program, the board has no jurisdiction. *Stephens v. San Juan County*, 02-2-0001 (Order of Dismissal, 3-20-02)
- Where a new rural marine industrial designation allows a wide range of uses which are inconsistent with the SMA, SMP and GMA CA protections, the failure to even make a threshold determination does not comply with the SEPA requirements of the GMA. *Anacortes v. Skagit County* 00-2-0049c (FDO, 2-6-01)
 - Where a shoreline buffer reduction provision requires a geotechnical study to insure the setback would preclude the need for hard-armoring for the lifetime of the residence and which provides for native vegetation retention, the ordinance complies with the Act. *ICCGMC v. Island County* 98-2-0023 (Compliance Order, 10-12-00)
 - A provision that allows reduction of shoreline buffer areas through buffer averaging of existing residential setbacks, even with a requirement for a HMP, does not include BAS and does not comply with the Act. *ICCGMC v. Island County* 98-2-0023 (Compliance Order, 3-6-00)
 - Where SEPA challenges are limited specifically to DOE's approval of SMP amendments, a GMHB reviews DOE's decision. Thus, a county motion to dismiss SEPA challenges is meaningless where the motion was not joined by DOE. *Floatplane v. San Juan County* 99-2-0005 (MO 5-3-99)
 - The recent amendment to RCW 36.70A.290(2) authorizes a petition to a GMHB to include a challenge to whether the CP, DR, or amendments thereto adopted under GMA also comply with the SMA. *Storedahl v. Clark County* 96-2-0016 (MO 7-31-97)
 - RCW 36.70A.300 and .330 provide jurisdiction for a GMHB to review compliance of GMA actions with the SMA in subsequent compliance hearings since the goals and policies of the SMA and local SMP are now a part of the requirements of GMA under RCW 36.70A.480(1). *Storedahl v. Clark County* 96-2-0016 (MO 7-31-97)
 - The SMA and the SMP adopted by a local government are an element of a GMA CP. *Storedahl v. Clark County* 96-2-0016 (MO 7-31-97)
 - RCW 90.58.190 requires a GMHB to uphold the decision of DOE unless an appellant sustains the burden of proving that DOE's decision did not comply with the requirements of the SMA including the policies of RCW 90.58.020 and applicable guidelines, the goals and requirements of the GMA, and the SEPA requirements for adoption of amendments under RCW 90.58. *San Juan County & Yeager v. DOE* 97-2-0002 (FDO, 6-19-97)
 - A CP must be consistent with the policies and requirements of the SMA and the local SMP. *Moore-Clark v. La Conner* 94-2-0021 (FDO, 5-11-95)

SHORELINES

1. Shorelines of Statewide Significance

- A GMHB must uphold the decision of DOE concerning an amendment to the local SMP relating to shorelines of statewide significance unless the GMHB is persuaded by clear and convincing evidence that the DOE decision is inconsistent with the policy of RCW 90.58.020 and the applicable guidelines set forth in WAC 173-16. *San Juan County & Yeager v. DOE 97-2-0002 (FDO, 6-19-97)*

2. Shorelines of the State

- In an appeal of a proposed amendment to the local SMP for shorelines of the state, a GMHB must answer the questions of whether there is compliance with the requirements of the SMA, the requirements of the GMA, the policy of RCW 90.58.020 and applicable guidelines and SEPA compliance relating to the adoption of the proposed amendment. *San Juan County & Yeager v. DOE 97-2-0002 (FDO, 6-19-97)*

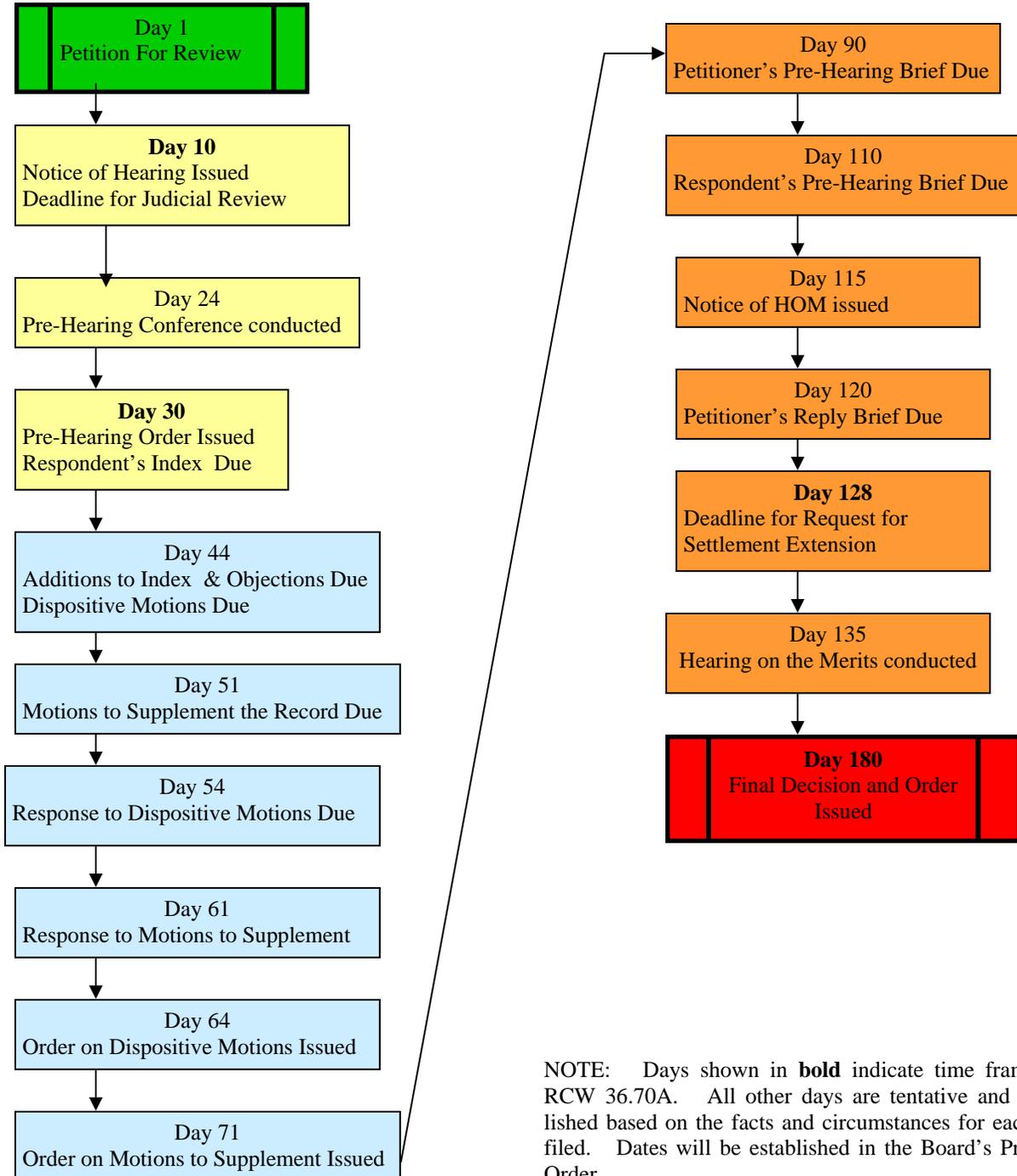
SHORELINES MASTER PROGRAMS (SMP)

- [Relying in part on the Board's previous holding in *Evergreen Islands v. Anacortes* and WAC 173-26-191, the Board stated]: [The designation of critical area in the shoreline are by the Critical Areas Ordinance], which are incorporated by reference, are to be subject to public review at the time of their incorporation ... Petitioners/Intervenor were entitled to "an opportunity to participate in the formulation of the regulations" including "their incorporation into the master program". To suggest that the public has no right to appeal the regulations as they are incorporated into the master program would render them passive participants and the SMA's provisions related to public participation meaningless. *CRSP/Jepson v. Whatcom County/Ecology*, Case No. 08-2-0031 FDO, at 14-15. (April 20, 2009)
- Had the County merely designated its shorelines as critical areas without consideration of whether those shorelines qualified as critical areas, the County would have run afoul of RCW 36.70A.480(5)'s requirement to designate those "specific" shorelines of the state that "qualify for critical area designation" ... RCW 36.70A.480(5) permits Shorelines of the State to be considered critical areas when specific areas located within these shorelines qualify for critical area designation based on the definition of critical areas set forth in RCW 36.70A.030(5) and they have been designated as such by the local government ... The County CAO designates as critical areas all areas that are of critical importance to the maintenance of special status fish, wildlife and/or

- plant species. . *CRSP/Jepson v. Whatcom County/Ecology*, Case No. 08-2-0031 FDO, at 16-17. (April 20, 2009)
- [After reviewing the Record related to specific water bodies, the Board held]: In short, the County developed a record in its CAO, CAO maps, and Shoreline Inventory which supports the designation of Whatcom County's shorelines as a type of critical area – specifically, fish habitat. While the Board might well wonder whether some areas of the shoreline are so developed or isolated from protected species as to afford little habitat, Intervenors have not carried their burden of proof by showing that these [blanket] designations were clearly erroneous ... The record in this case shows that these shorelines were designated as critical areas because of their role as fish and wildlife habitat conservation areas. . *CRSP/Jepson v. Whatcom County/Ecology*, Case No. 08-2-0031 FDO, at 19. (April 20, 2009)
 - The County's adoption of Ordinance 7-2006 was not an amendment of the County SMP. Whatever regulations the SMP imposed on construction in shoreline jurisdiction prior to the adoption of Ordinance 7-2006 remain unaltered. We therefore conclude that the County was not required to comply with the notice and adoption procedures applicable to an amendment of its SMP. *Friends of San Juans, et al v. San Juan County*, Case No. 03-2-0003c coordinated with *Nelson, et al v. San Juan County*, Case No. 06-2-0024c, FDO/Compliance, at 56 (Feb. 12, 2007)
 - Pursuant to RCW 36.70A.290(2)(c), appeals of Shoreline Master Program amendments to this Board are not ripe until the Department of Ecology has approved or disapproved the amendments, and notice of that decision is published. *Friends of the San Juans, Lynn Bahrych, and Joe Symons v. San Juan County* 03-3-0003 (Corrected FDO, 4-17-03)
 - Where a new rural marine industrial designation allows a wide range of uses which are inconsistent with the SMA, SMP and GMA CA protections, the failure to even make a threshold determination does not comply with the SEPA requirements of the GMA. *Anacortes v. Skagit County* 00-2-0049c (FDO, 2-6-01)
 - Where a CAO provisions are in addition to the SMP, there is no inconsistency between the CAO and the SMP. *PPF v. Clallam County* 00-2-0008 (FDO, 12-19-00)
 - A CP policy adoption prohibiting mining within 100-year floodplain did not amount to a *de facto* amendment of the SMP and thus approval by DOE was not required. *Storedahl v. Clark County* 96-2-0016 (RO 9-15-97)
 - For GMA planning counties adoption of amendments to the local SMP after July 23, 1995, are reviewed by a GMHB. *Storedahl v. Clark County* 96-2-0016 (MO 7-31-97)
 - A SMP element of a CP and/or DR must be internally consistent and consistent with all other aspects of a CP and DRs adopted by a local government. *Storedahl v. Clark County* 96-2-0016 (MO 7-31-97)

- Consistency between a CP and DRs and a SMP must be achieved immediately by a local government. The 24-month grace period set forth in RCW 90.58.060 relating to guidelines adopted by the DOE does not apply to GMA adoptions by a local government. *Storedahl v. Clark County* 96-2-0016 (MO 7-31-97)
- The portions of a SMP dealing with goals and policies are considered an element of the CP. All other portions of the SMP are considered DRs. *Storedahl v. Clark County* 96-2-0016 (MO 7-31-97)
- 1995 amendments to RCW 36.70A.280 transferred jurisdiction to GMHBs to decide issues concerning amendments to local SMPs adopted by cities and counties planning under the GMA. *San Juan County & Yeager v. DOE* 97-2-0002 (FDO, 6-19-97)
- Under RCW 36.70A.480(2) amendments to SMPs continue to be processed under the provisions of the SMA, which requires approval by DOE. *San Juan County & Yeager v. DOE* 97-2-0002 (FDO, 6-19-97)
- A GMHB must uphold the decision of DOE concerning an amendment to the local SMP relating to shorelines of statewide significance unless the GMHB is persuaded by clear and convincing evidence that the DOE decision is inconsistent with the policy of RCW 90.58.020 and the applicable guidelines set forth in WAC 173-16. *San Juan County & Yeager v. DOE* 97-2-0002 (FDO, 6-19-97)
- In an appeal of a proposed amendment to the local SMP for shorelines of the state, the scope of review addresses the question of whether there is compliance with the requirements of the SMA, the requirements of the GMA, the policy of RCW 90.58.020 and applicable guidelines and SEPA. *San Juan County & Yeager v. DOE* 97-2-0002 (FDO, 6-19-97)
- A local government in amending its SMP must consider consistency with the goals and requirements of the GMA, SEPA and the SMA in reaching its decision. DOE is not authorized to and does not include the provisions of GMA or SEPA in its decision. *San Juan County & Yeager v. DOE* 97-2-0002 (FDO, 6-19-97)
- Under RCW 36.70A.480, SMP use regulations are equivalent to GMA DRs. *Seaview v. Pacific County* 95-2-0076 (Compliance Order, 2-6-97)
- In 1996 the Legislature expanded the jurisdiction of a GMHB to include review of adoption of SMPs or amendments thereto. *Seaview v. Pacific County* 96-2-0010 (FDO, 10-22-96)
- Where an amendment to the SMP was adopted after a DNS that did not include actual consideration of environmental factors shown in the record, a conclusion that a mistake was made under the clearly erroneous test was reached. *Seaview v. Pacific County* 96-2-0010 (FDO, 10-22-96)
- A CP must be consistent with the policies and requirements of the SMA and the local SMP. *Moore-Clark v. La Conner* 94-2-0021 (FDO, 5-11-95)

Western Washington Growth Management Tentative Case Schedule



NOTE: Days shown in **bold** indicate time frames set in RCW 36.70A. All other days are tentative and are established based on the facts and circumstances for each petition filed. Dates will be established in the Board's Pre-Hearing Order.



LAKE STEVENS CITY COUNCIL
STAFF REPORT

Council Agenda Date: January 28, 2013

Subject: 2012 Buildable Lands Report Briefing

Contact Person/Department: Rebecca Ableman, Planning & Community Development Director **Budget Impact:** None

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL: The recommended action is for Council to review, discuss, and provide feedback to the City’s Snohomish County Tomorrow (SCT) Steering Committee member, Mayor Little on the draft 2012 Buildable Lands Report (Attachment A).

SUMMARY: The 2012 land capacity analysis includes the new densities and intensities of the Lake Stevens Subarea Plans zoning that was adopted by Council in October 2012. The comparison chart below describes the Lake Stevens UGA (city limits plus unincorporated county) land capacity as adequate to meet the allocated 2025 growth targets.

Population (UGA=city boundaries 2012 + unincorporated UGA)					
2025 UGA Reconciled Target (Through SCT)	2007 BLR Capacity	Excess-Shortfall	2012 BLR Capacity	Capacity Difference from 2007	Comment
46,125	49,250	3,125	46,793	(2,457)	Capacity has been reduced from realized densities versus projected densities and the change in the Subarea Plans of residential to commercial zoning particularly in the 20 th Street Corridor area. Capacity is still adequate to accommodate 2025 target.
Employment					
6,615	6,351	(264)	7,754	1,403	Capacity has increased as a result of Subarea Plans zoning changes.

BACKGROUND/HISTORY: Snohomish County is completing work on the 2012 Buildable Lands Report (BLR). Under the state Growth Management Act (GMA), Snohomish County and its cities are required to review and evaluate the adequacy of suitable residential, commercial and

industrial lands inside the Urban Growth Area (UGA) for accommodating projected population and employment growth during the remaining portion of the current 20-year GMA planning horizon (i.e., to 2025). The BLR project was conducted under the county's lead in partnership with the cities in Snohomish County through participation in the countywide planning organization SCT.

The 2012 BLR project follows a framework for coordinated county and city data collection and analysis originally established in the Procedures Report prepared with the assistance of the consulting firm ECONorthwest and approved by the SCT Steering Committee in October 2000. Titled "Recommended Methodology and Work Program for a Buildable Lands Analysis for Snohomish County and its cities," this report was used as the framework for the county's BLR in 2002 and 2007, and is used again for the 2012 BLR. The 2012 analysis will also be informed by actual development densities observed since the 2007 BLR. Council may recall that the City of Lake Stevens conducted its own analysis for the 2007 in order to gain more specific development and capacity realization in the community.

Please note that although the State extended the 2012 deadline for BLR, the County was already in process so elected to continue the project. This is advantageous since the County and cities are required to complete a Comprehensive Plan Update for which the BLR is informative. The land capacity information is also important for the 2035 Growth Target Allocation process to be reviewed with the Council following this report.

Attached are maps showing where/how land capacity was calculated. The maps include:

- Attachment B - Land Status, indicates whether land is vacant, developable, or redevelopable for purposes of capacity analysis
- Attachment C – Critical Areas Map, known and estimated
- Attachment D – City Zoning Map
- Attachment E – 2012 Housing Capacity, shows where there is residential land capacity
- Attachment F – 2012 Employment Capacity indicates where there is employment capacity.

For comparison purposes, the 2007 BLR capacity chart for the County and cities is shown in Attachment G.

APPLICABLE CITY POLICIES:

The following Comprehensive Plan Goals and Policies are applicable to the 2012 Buildable Lands Report:

Population Growth and Growth Management

GOAL 4.9 ACCOMMODATE GROWTH THAT FACILITATES AND ENHANCES AN URBAN SMALL TOWN CHARACTER.

Policies

- 4.9.1 Accommodate new development to support a rate of growth that is consistent with the City's responsibilities under the Growth Management Act and the County-wide Planning Policies.
- 4.9.2 Ensure that growth is phased to maintain consistency with the City's Capital Facilities Plan for providing public facilities including streets, sidewalks, lighting systems, traffic signals, water, storm and sanitary sewer, parks and recreational facilities, and schools.
- 4.9.3 Assure that development provides for transportation access consistent with the level of service established for the community and is concurrent with the impacts of the development.
- 4.9.4 Encourage growth that is responsive to environmental concerns and that enhances the natural environment of the lake drainage basin and the areas watersheds.
- 4.9.5 An urban level of development shall be defined as gross densities area's of 4 dwelling units per acre or more.
- 4.9.6 The City will actively participate in Snohomish County Tomorrow's population monitoring strategy. The strategy will be used to amend the Plan as necessary to remain consistent with actual settlement patterns and population trends.

BUDGET IMPACT:

NA

ATTACHMENTS:

- Attachment A – 2012 Draft Population and Employment Land Capacity Graphs
- Attachment B – Land Status, indicates whether land is vacant, developable, or redevelopable for purposes of capacity analysis
- Attachment C – Critical Areas Map, known and estimated
- Attachment D – City Zoning Map
- Attachment E – 2012 Housing Capacity, shows where there is residential land capacity
- Attachment F – 2012 Employment Capacity indicates where there is employment capacity.
- Attachment G – 2007 BLR Capacity Charts

Attachment A

Snohomish County Tomorrow 2012 Buildable Lands Report - December 13, 2012 PAC DRAFT

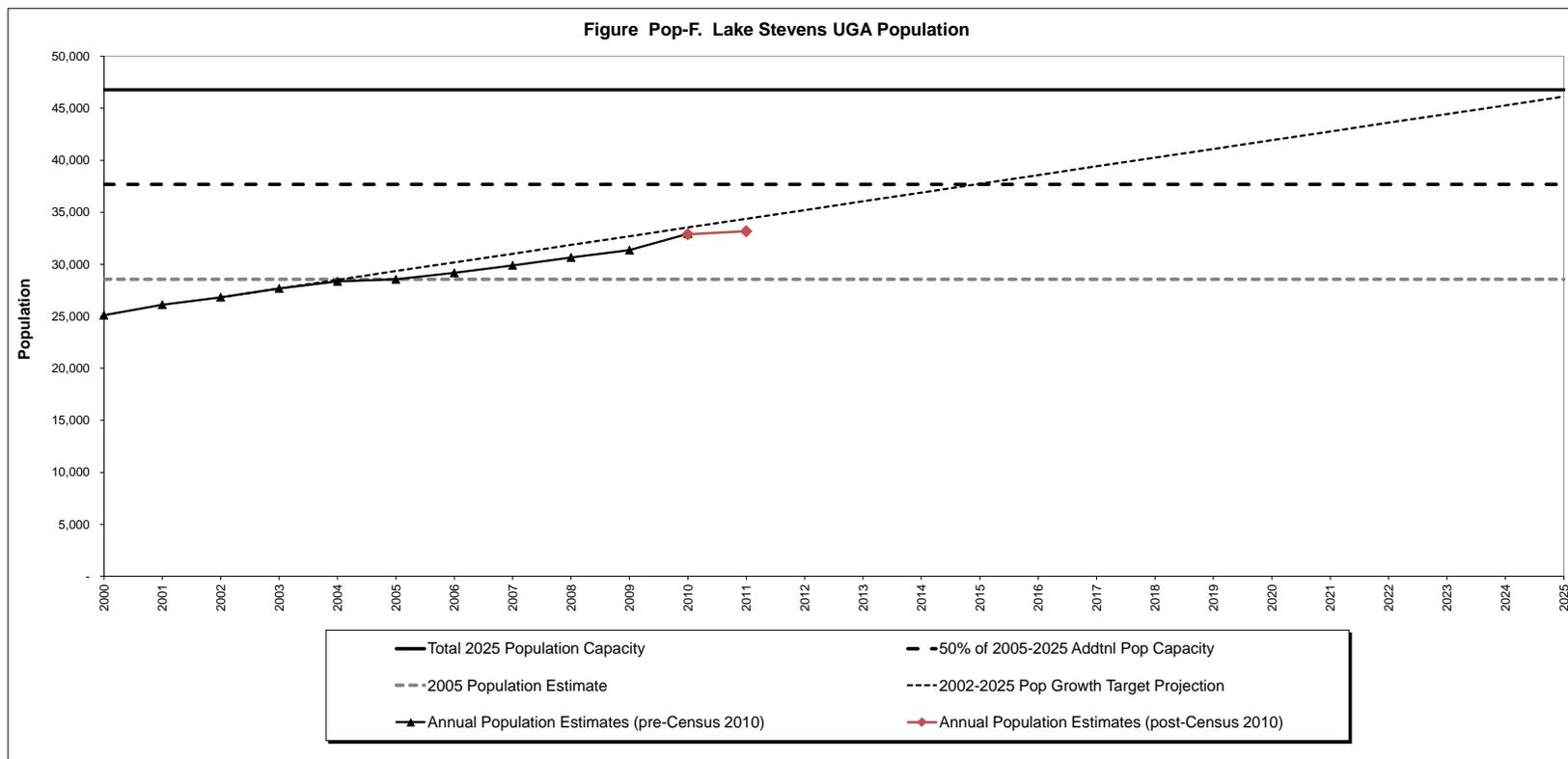


Table _____. Lake Stevens UGA Population Statistics

	(A) Pre-Census 2010 Population Estimates												(B) 2010 Census			(B) Post-Census Pop Est	(C) 2005-11 Numeric Change	(D) 2025 CPP Pop Target	(D) 2005-25 Numeric Change	(E) Total 2025 Pop Cap	(F) 2005-25 Addtl Pop Cap	(F) 2005-11 Change as % of 2005-25 Addtl Pop Cap
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	Pop	Diff. (Census-Est) No.	Pct.	2011	= (B) - (A)	= (D) - (A)	= (E) - (A)	= (C) / (F) *100			
Lake Stevens UGA	25,096	26,120	26,828	27,672	28,366	28,560	29,174	29,898	30,664	31,359	32,930	32,896	-34	-0.1%	33,180	4,620	46,125	17,565	46,793	18,233	25.3%	

Attachment A
 Snohomish County Tomorrow 2012 Buildable Lands Report - December 13, 2012 PAC DRAFT

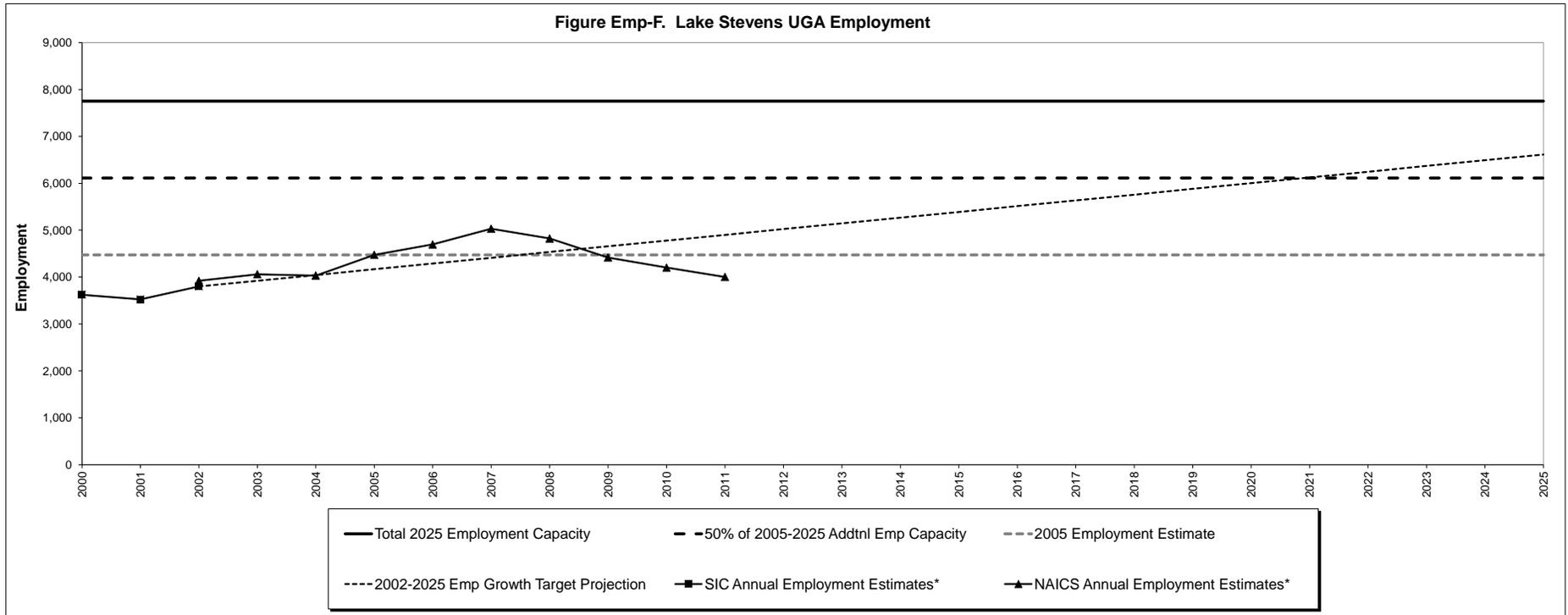
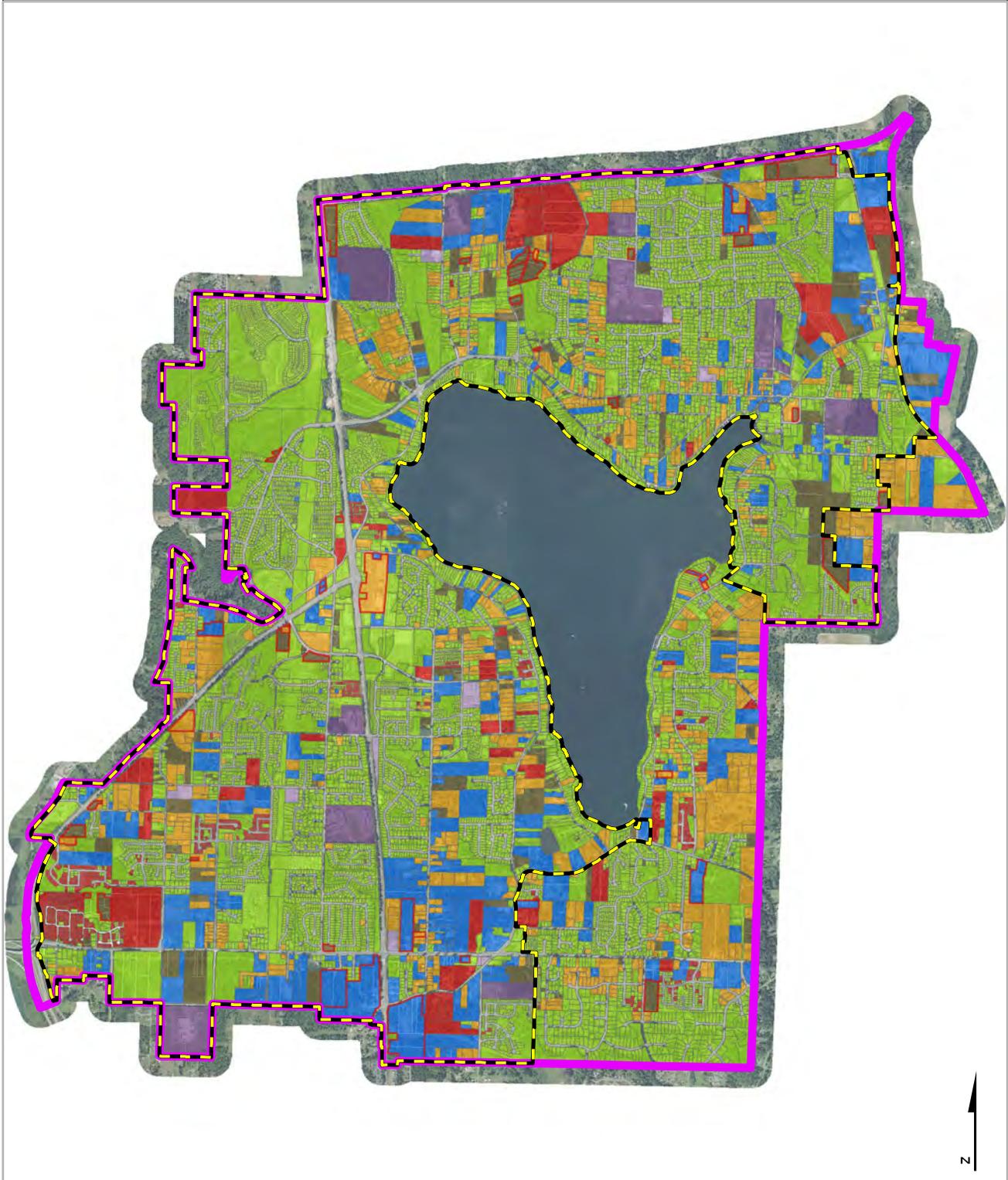


Table Emp-F. Lake Stevens UGA Employment Statistics

	(A)													(B)	(C)	(D)	(E)	(F)	
	2000	2001	2002 SIC	2002 NAICS	2003	2004	2005	2006	2007	2008	2009	2010	2011	2005-11 Numeric Change = (B) - (A)	2025 CPP Emp Target	2005-25 Numeric Change = (D) - (A)	Total 2025 Emp Cap	2005-25 Addtl Emp Cap = (E) - (A)	2005-11 Change as % of 2005-25 Addtl Emp Cap = (C) / (F) *100
Lake Stevens UGA	3,625	3,526	3,799	3,919	4,061	4,033	4,475	4,695	5,031	4,822	4,417	4,201	4,003	-472	6,615	2,140	7,754	3,279	-14.4%

* The State of Washington Employment Security Department now uses the NAICS system of classifying jobs to prepare its data, changing the way some jobs are categorized and resulting in slightly different UGA employment estimates than under the old SIC system. Data for 2002 is shown using both systems. In addition, beginning with the 2002 NAICS estimate, temporary workers have been incorporated into the estimates.

Land Status **FINAL DRAFT** Lake Stevens UGA



Legend

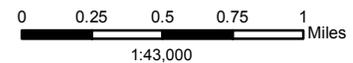
- UGA or MUGA Boundary
- City Boundary
- Assessor Parcels April 2011
- 2011 Aerial Imagery

Land Status

- Constant / Replacement
- Partially-Used
- Pending
- Redevelopable
- Religious Uses
- School
- Special
- Vacant

Land Status Overlays

- Market Ready



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Critical Areas and Easements

Lake Stevens UGA



Legend

- UGA Boundary
- City Boundary
- Utility or NGPA Easement
- Future Arterial
- 2011 Aerial Imagery

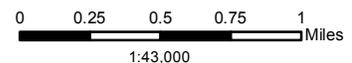
Stream Classification

- S
- F
- Np
- Ns
- U

- Stream Buffers as Modeled
- Wetland with Buffer as Modeled
- Slope >33% w/25ft Buffer
- Waterbody
- Inside 100-year floodplain



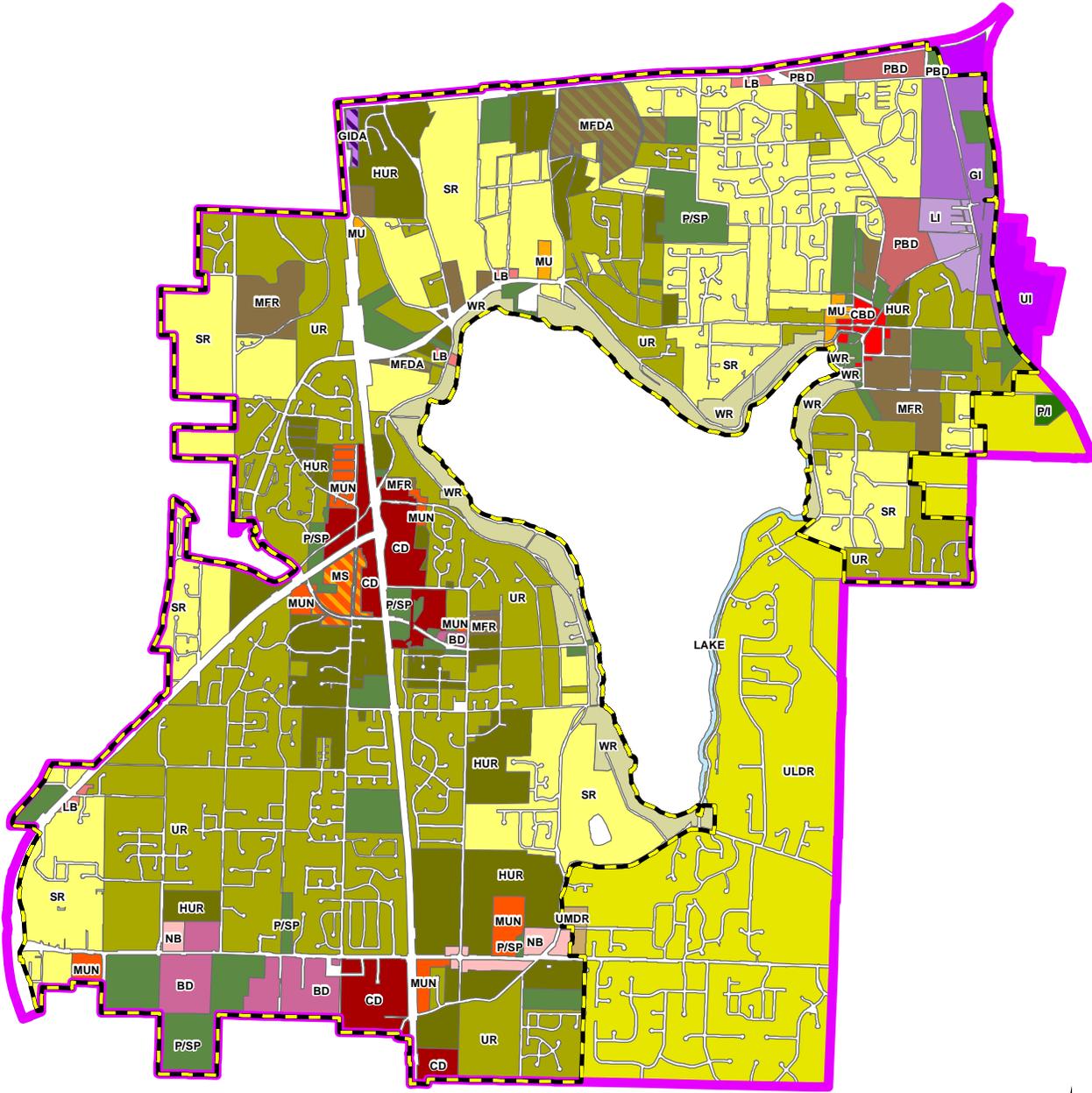
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Zoning / Future Land Use

FINAL DRAFT



Legend

- UGA or MUGA Boundary
- City Boundary

Zone or FLU Designation Labels

Commercial

- LB *Local Business*
- PBD *Planned Business District*
- CBD *Central Business District*
- SRC *Sub-Regional Commercial*

Mixed Use

- MU *Mixed Use*

Industrial

- LI *Light Industrial*
- GI *General Industrial*
- GIDA *GI Development Agreement*
- UI *Urban Industrial*

Residential

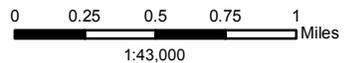
- WR *Waterfront Residential*
- SR *Suburban Residential*
- UR *Urban Residential*
- HUR *High Urban Residential*
- MFR *Multi Family Residential*
- MFDA *MF Development Agreement*
- ULDR *Urban Low Density Residential*
- UMDR *Urban Medium Density Residential*

Other

- P/SP *Public / Semi-Public*
- P/I *Public / Institutional*
- LAKE *Lake*



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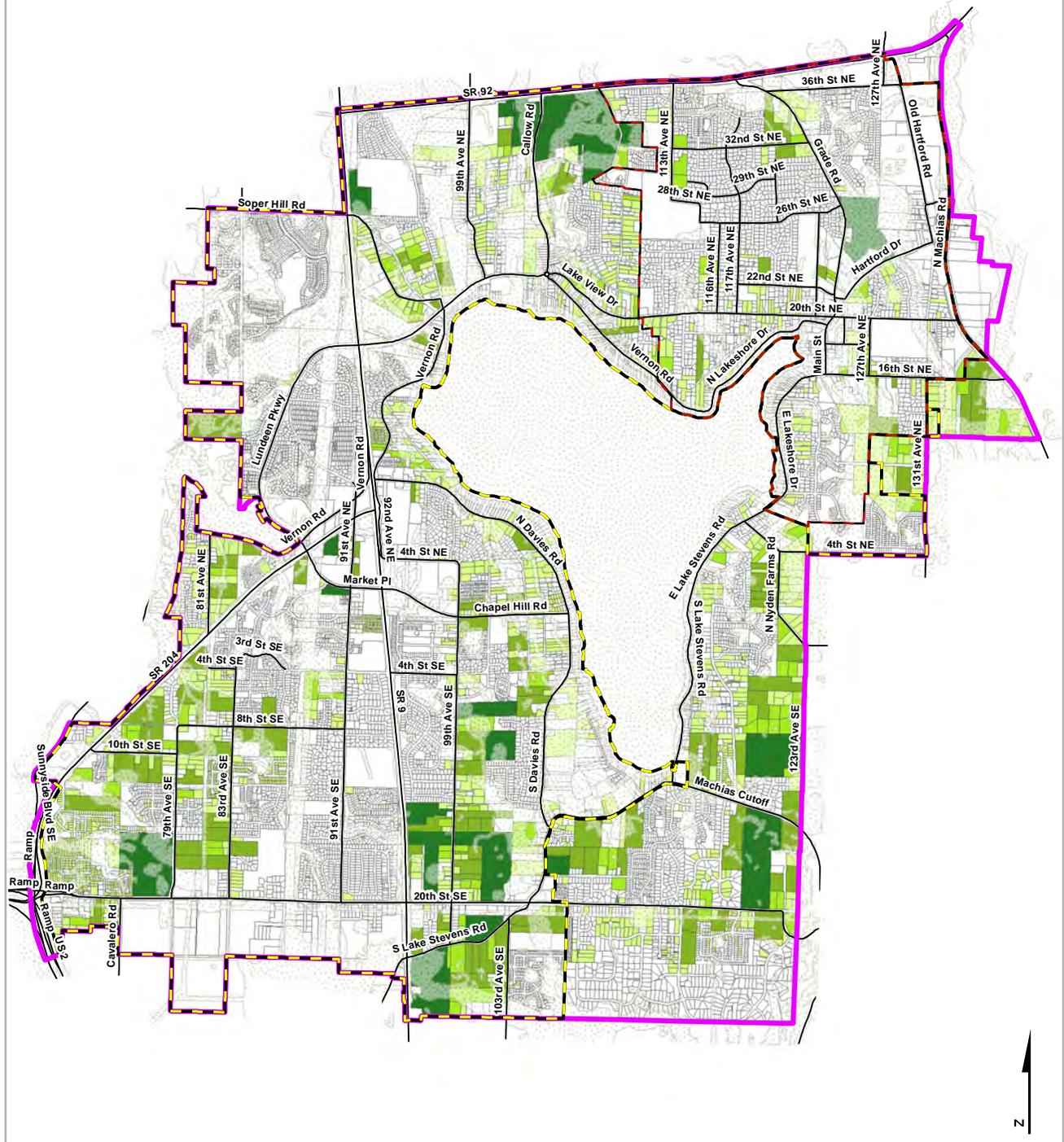


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Additional Housing Unit Capacity

Lake Stevens UGA

FINAL DRAFT



Legend

- UGA Boundary
- City Boundary 2002
- Current City Boundary
- Major Roads
- Critical Areas, Buffers and Easements

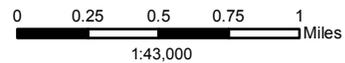
Additional Housing Unit Capacity per Parcel

- 0
- 1-5
- 6-10
- 11-50
- 51+

Capacity estimates are calculated based on parcel area not shaded by the Critical Area and Easements Layer. Capacities of individual parcels are generalized into low-to-high color ranges for map display purposes only. Exact capacity values for individual parcels are available upon request.



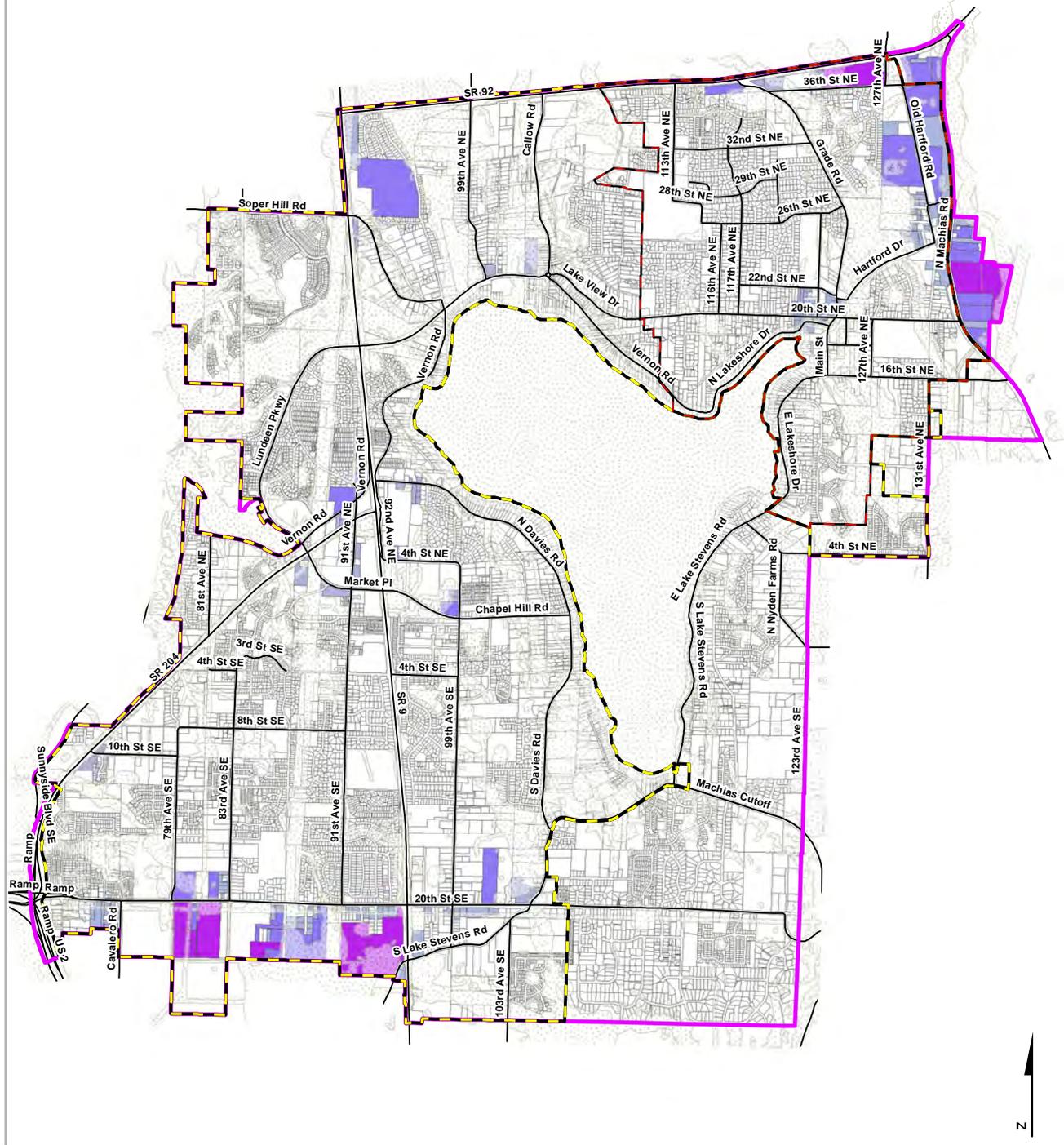
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Additional Employment Capacity

FINAL DRAFT



Legend

- UGA Boundary
- City Boundary 2002
- Current City Boundary
- Major Roads
- Critical Areas, Buffers and Easements

Additional Employment Capacity per Parcel

- 0
- 1-25
- 26-100
- 101-500
- 501+



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Table 1

2025 UGA Population Targets and Capacities

(All estimates, targets and capacity comparisons below are based on 2002 city boundaries)

Area	2006 Estimated Population	Reconciled CPP 2025 Population Targets	2006-2025 Numeric Change	2025 Total Population Capacity	Additional 2006-2025 Pop Capacity	Pop Capacity Surplus vs. Shortfall ()
Non-S.W. County UGA	146,860	226,794	79,934	243,999	97,139	17,205
Arlington UGA	16,567	27,000	10,433	27,511	10,944	511
Arlington City	15,217	18,150	2,933	18,864	3,647	714
Unincorporated	1,350	8,850	7,500	8,647	7,297	(203)
Darrington UGA	1,593	2,125	532	2,751	1,158	626
Darrington Town	1,465	1,910	445	2,175	710	265
Unincorporated	128	215	87	576	448	361
Gold Bar UGA	2,883	3,500	617	3,437	554	(63)
Gold Bar City	2,125	2,497	372	2,543	418	46
Unincorporated	758	1,003	246	894	136	(110)
Granite Falls UGA	3,242	6,970	3,728	9,451	6,209	2,481
Granite Falls City	3,095	4,770	1,675	5,828	2,733	1,058
Unincorporated	147	2,200	2,053	3,623	3,476	1,423
Index UGA (incorporated)	155	190	35	210	55	20
Lake Stevens UGA	29,174	46,125	16,951	49,250	20,076	3,125
Lake Stevens City	7,176	8,360	1,184	8,481	1,305	121
Unincorporated	21,998	37,765	15,767	40,769	18,771	3,004
Maltby UGA (unincorporated)		NA	NA	NA	22	NA
Marysville UGA	55,034	79,800	24,766	88,032	32,998	8,232
Marysville City	29,562	36,737	7,175	39,136	9,574	2,399
Unincorporated	25,472	43,063	17,591	48,896	23,424	5,833
Monroe UGA	17,751	26,590	8,839	24,071	6,320	(2,519)
Monroe City	16,170	20,540	4,370	19,680	3,510	(860)
Unincorporated	1,581	6,050	4,469	4,391	2,810	(1,659)
Snohomish UGA	10,193	14,535	4,342	15,190	4,997	655
Snohomish City	8,597	9,981	1,384	10,447	1,850	466
Unincorporated	1,596	4,554	2,958	4,743	3,147	189
Stanwood UGA	5,483	8,840	3,357	12,419	6,936	3,579
Stanwood City	4,628	5,650	1,022	6,486	1,858	836
Unincorporated	855	3,190	2,335	5,933	5,078	2,743
Sultan UGA	4,785	11,119	6,334	11,655	6,870	536
Sultan City	4,440	8,190	3,750	9,167	4,727	977
Unincorporated	345	2,929	2,584	2,488	2,143	(441)
S.W. County UGA	406,285	533,125	126,840	545,620	139,335	12,495
Incorporated S.W.	252,951	303,227	50,276	303,592	50,641	365
Bothell City (part)	15,090	22,000	6,910	21,117	6,027	(883)
Brier City	6,480	7,790	1,310	7,280	800	(510)
Edmonds City	40,360	44,880	4,520	45,570	5,210	690
Everett City	99,467	123,060	23,593	124,696	25,229	1,636
Lynnwood City	35,230	43,782	8,552	43,094	7,864	(688)
Mill Creek City	14,783	16,089	1,306	16,069	1,286	(20)
Mtlake Terrace City *	20,756	22,456	1,700	22,463	1,707	7
Mukilteo City	19,620	22,000	2,380	22,000	2,380	-
Woodway Town	1,165	1,170	5	1,303	138	133
Unincorporated S.W.	153,334	229,898	76,564	242,028	88,694	12,130
UGA Total	553,145	759,919	206,774	789,619	236,474	29,700
City Total	345,581	420,202	74,621	426,609	81,028	6,407
Unincorporated UGA Total	207,564	339,717	132,154	363,010	155,446	23,292

UGA Safety Factor as of 2006 = 14.4% (Percent which Additional 2006-2025 Pop Capacity exceeds 2006-2025 Numeric Change)

* NOTE : Mountlake Terrace 2006 population estimate includes a correction made by OFM in 2007 to account for for additional population mistakenly excluded in post-2000 city population estimates.

Table 3

2025 UGA Employment Targets and Capacities

(All estimates, targets and capacity comparisons below are based on 2002 city boundaries)

Area	2006 Estimated Employment	Reconciled CPP 2025 Employment Targets	2006-2025 Numeric Change	2025 Total Employment Capacity	Additional 2006-2025 Emp Capacity	Emp Capacity Surplus vs. Shortfall ()
Non-S.W. County UGA	52,174	80,628	28,454	98,625	46,451	17,997
Arlington UGA	10,200	15,360	5,160	21,647	11,447	6,287
Arlington City	9,988	14,350	4,362	19,002	9,014	4,652
Unincorporated	212	1,010	798	2,645	2,433	1,635
Darrington UGA	686	535	(151)	4,184	3,498	3,649
Darrington Town	686	415	(271)	2,661	1,975	2,246
Unincorporated	-	115	115	1,523	1,523	1,408
Gold Bar UGA	223	210	(13)	529	306	319
Gold Bar City	221	210	(11)	527	306	317
Unincorporated	2	-	(2)	2	-	2
Granite Falls UGA	1,030	2,200	1,170	2,273	1,243	73
Granite Falls City	1,029	2,109	1,080	2,241	1,212	132
Unincorporated	1	91	90	32	31	(59)
Index UGA (incorporated)	23	70	47	23	-	(47)
Lake Stevens UGA	4,695	6,615	1,920	6,351	1,656	(264)
Lake Stevens City	1,296	1,805	509	2,092	796	287
Unincorporated	3,399	4,810	1,411	4,259	860	(551)
Maltby UGA (unincorporated)	3,811	4,960	1,149	7,506	3,695	2,546
Marysville UGA	11,821	24,008	12,187	27,520	15,699	3,512
Marysville City	10,074	16,851	6,777	17,060	6,986	209
Unincorporated	1,747	7,157	5,410	10,460	8,713	3,303
Monroe UGA	9,633	12,390	2,757	13,508	3,875	1,118
Monroe City	9,214	11,800	2,586	12,853	3,639	1,053
Unincorporated	419	590	171	655	236	65
Snohomish UGA	5,442	6,730	1,288	7,143	1,701	413
Snohomish City	4,431	4,900	469	4,933	502	33
Unincorporated	1,011	1,830	819	2,210	1,199	380
Stanwood UGA	3,600	5,550	1,950	5,848	2,248	298
Stanwood City	3,368	4,790	1,422	5,036	1,668	246
Unincorporated	232	760	528	812	580	52
Sultan UGA	1,010	2,000	990	2,093	1,083	93
Sultan City	1,009	1,970	961	2,092	1,083	122
Unincorporated	1	30	29	1	-	(29)
S.W. County UGA	181,924	259,577	77,653	273,762	91,838	14,185
Incorporated S.W.	158,714	219,473	60,759	231,306	72,592	11,833
Bothell City (part)	14,862	15,840	978	18,085	3,223	2,245
Brier City	310	430	120	359	49	(71)
Edmonds City	11,648	12,190	542	14,862	3,214	2,672
Everett City	85,340	130,340	45,000	133,453	48,113	3,113
Lynnwood City	27,336	38,550	11,214	39,679	12,343	1,129
Mill Creek City	3,834	4,544	710	5,448	1,614	904
Mtlake Terrace City	7,712	8,039	327	9,099	1,387	1,060
Mukilteo City	7,608	9,450	1,842	10,257	2,649	807
Woodway Town	64	90	26	64	-	(26)
Unincorporated S.W.	23,210	40,104	16,894	42,456	19,246	2,352
UGA Total	234,098	340,205	106,107	372,387	138,289	32,182
City Total	200,053	278,743	78,690	299,826	99,773	21,083
Unincorporated UGA Total	34,045	61,462	27,417	72,561	38,516	11,099



LAKE STEVENS CITY COUNCIL
STAFF REPORT

Council Agenda Date: January 28, 2013

Subject: 2035 SCT Growth Target Allocation Process

Contact Person/Department: Rebecca Ableman, Planning & Community Development Director **Budget Impact:** None

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL: The recommended action is for Council to review, discuss, and provide feedback to the City’s Snohomish County Tomorrow (SCT) Steering Committee member, Mayor Little on the proposed 2035 Growth Allocations (**Attachment A and B**- please note that changes have been made to these table by the County but are not yet available. Staff will review the changes with Council).

SUMMARY: Following

Population				
2025 UGA Reconciled Target (Through SCT)	2035 proposed Target City/UGA=total	2012 BLR Capacity plus estimated 2035 capacity	Excess-(Shortfall) City/UGA=total	Comment
46,125	39,485/7,034= 46,519	38,400/8,885= 47,285	(1,085)/1,851= 766	Excess capacity for total UGA
Employment				
6,615	7,443/409= 7,852	7,412/576= 7,988	(31)/167= 406	Excess capacity for total UGA

BACKGROUND/HISTORY: This effort is to comply with **RCW 36.70A.110 – Comprehensive Plans – Urban Growth Areas**, which states:

(2) Based upon the growth management population projection made for the county by the office of financial management, the county and each city within the county shall include areas and densities sufficient to permit the urban growth that is projected to occur in the county or city for the succeeding twenty-year period...

The last effort was accomplished in 2005 for the planning period ending in 2025 through the SCT process. The current Countywide Planning Policies (CPP) in GF-5 identify the process as follows:

- Use SCT process

- Results in city, unincorporated UGAs/MUGAs and rural/resource area targets in Appendix B of CPPs
- Uses the most recent OFM population projections for Snohomish County and the Puget Sound Regional Council's (PSRC) Regional Growth Strategy (RGS) as the starting point
- Must consider each community's vision and regional role as described in the RGS
- Shall ensure flexibility for jurisdictions in implementing the RGS, considering levels of infrastructure investment, market conditions, and other factors that will require flexibility in achieving growth allocations

The state Office of Financial Management issues a range of growth projections. The County Council has given direction to plan for the medium growth forecast for 2035 which forecasts that the population will likely be approximately 955,000. This is 45,000 more than the 2025 growth target of approximately 905,000.

Vision 2040 was adopted by the PSRC in 2008 that contains the RGS. The RGS establishes a new approach to growth allocation in the 4 county region and assigns 2000-2040 population and employment growth to "regional geographies (different groups of jurisdictions) as shown in the table on page 1 of **Attachment C** of the County's 2015 COMPREHENSIVE PLAN UPDATE Fact Sheet which also shows the distribution percentage of each geography. Lake Stevens is categorized in the "Large City" geography. Council may recall that Vision 2040 was being adopted at the same time annexations were occurring and had initially been placed in the "small city" category. In 2010, PSRC updated the City to the "Large City" category. Regional Geographies are as follows:

- Metropolitan City (Everett)
- Core City (Bothell, Lynnwood)
- Large City (Arlington, Edmonds, Lake Stevens, Marysville, Mill Creek, Monroe, Mountlake Terrace, Mukilteo)
- Small City (Brier, Darrington, Gold Bar, Granite Falls, Index, Snohomish, Stanwood, Sultan, Woodway)

The primary distribution change in the RGS is that population growth within the County is more heavily weighted toward cities with Regional Growth Centers (Metropolitan city and Core cities) and away from the unincorporated UGA than in the past. Employment growth distribution, however, remains relatively the same.

Early on in the process, Snohomish County and cities have identified countywide challenges to the RGS:

1. Poses significant challenges for some jurisdictions, requiring substantial changes in growth trends and capacity
2. Creates implications for local planning, requiring significant increases in local and regional transportation and other infrastructure investments to support growth consistent with RGS

3. Potential concerns may exist regarding a need to attenuate growth in unincorporated UGAs
4. Successful implementation of RGS overall will require significant changes in growth accommodation outcomes at the local level
5. Need for flexibility in aligning local targets with RGS over time
6. Recognition of steps jurisdictions are taking to achieve RGS objectives in important

So far, the SCT Planning Advisory Group has been able to work through some of these issues.

LAKE STEVENS PROPOSED GROWTH

The proposed population target for the City is slightly over the estimated capacity for 2035. However, there is excess capacity in the Lake Stevens unincorporated UGA so given the total UGA, there is excess capacity if the City expects to annex within the 20 year planning period. Additionally, it is likely that the draft Downtown Redevelopment Framework is estimating additional population capacity that is not yet shown. The City will need to address this issue in the 2015 Comprehensive Plan Update.

Employment growth allocations can have funding implications at the state and regional level. While Lake Stevens is not expected to be a large “employment center”, there is still regional, county, and local policies calling for a strong jobs to household balance. This is a goal that the City has had and is reflected most recently in the Subarea Planning efforts. Attachment B shows that Everett is unable to accommodate its proposed job growth allocation. The Planning Advisory Committee is recommending that those jobs be reallocated to the Large City geographies. At our meeting last week, the large cities in attendance agreed to recommend assigning an additional 1,000 jobs to the City of Lake Stevens, and the additional approximately 4,400 would be distributed among the other large cities. The final number will closely match the estimated 2035 job capacity. The same is true as with population in that the city boundaries show a slight capacity deficit but a surplus when including the unincorporated UGA.

APPLICABLE CITY POLICIES:

The following Comprehensive Plan Goals and Policies are applicable to the 2035 Growth Target Allocations as with the Buildable Lands Report:

Population Growth and Growth Management

GOAL 4.9 ACCOMMODATE GROWTH THAT FACILITATES AND ENHANCES AN URBAN SMALL TOWN CHARACTER.

Policies

- 4.9.1 Accommodate new development to support a rate of growth that is consistent with the City's responsibilities under the Growth Management Act and the County-wide Planning Policies.

- 4.9.2 Ensure that growth is phased to maintain consistency with the City's Capital Facilities Plan for providing public facilities including streets, sidewalks, lighting systems, traffic signals, water, storm and sanitary sewer, parks and recreational facilities, and schools.
- 4.9.3 Assure that development provides for transportation access consistent with the level of service established for the community and is concurrent with the impacts of the development.
- 4.9.4 Encourage growth that is responsive to environmental concerns and that enhances the natural environment of the lake drainage basin and the areas watersheds.
- 4.9.5 An urban level of development shall be defined as gross densities area's of 4 dwelling units per acre or more.
- 4.9.6 The City will actively participate in Snohomish County Tomorrow's population monitoring strategy. The strategy will be used to amend the Plan as necessary to remain consistent with actual settlement patterns and population trends.

BUDGET IMPACT:

NA

ATTACHMENTS:

Attachment A – Draft 2035 Population Allocation Working Paper

Attachment B – Draft 2035 Employment Allocation Working Paper

Attachment C – FACT SHEET: SNOHOMISH COUNTY 2015 COMPREHENSIVE PLAN UPDATE

Final Draft 2012 BLR Population Capacity and 2035 RGS Population Information

Based on Current Jurisdictional Boundaries

December 13, 2012 PAC DRAFT (Includes final draft 2012 BLR capacity information, as of Dec-13-2012)

Regional Geography:	2011 Total Pop Estimate	DRAFT 2012 BLR Total Pop Capacity (2025)	DRAFT 2012 BLR Addntl Pop Capacity (2011-2025)	% Distributn: Addtnl 2025 Pop Cap by Reg Geog	2035 RGS Total Pop (Medium)	Surplus/ Shortfall	2035 RGS Total Pop (Medium) Scenario	Addtnl Pop Capacity Increment due to 2035 Redev/PU	Other Addtnl Pop Capacity Sources to be studied _/1	Updated 2035 Total Pop Capacity (prelim.)	DRAFT 2035 Prelim. Addtnl Pop Capacity (2011-2035)	% Distributn: Addtnl 2035 Pop Cap by Reg Geog	ALTERNATE 2035		Difference: Alt. 2035 RGS minus Orig. 2035 RGS		% of County-wide Pop Growth	
													ALTERNATE 2035 RGS Total Pop (Medium)	ALTERNATE 2035 RGS Total Pop (Medium) Scenario	2035 RGS minus Orig. 2035 RGS	2011 - 2035 Growth	% of County-wide Pop Growth	
Metropolitan City																		
Everett	103,100	129,139	26,039	100%	164,812	(35,673)	164,812	3,344	10,617	143,100	40,000	100%	143,100	143,100	(21,712)	40,000	17%	
Core Cities	52,430	64,655	12,225	100%	77,914	(13,259)	77,914	815	3,554	69,024	16,594	100%	69,024	69,024	(8,890)	16,594	7%	
Bothell (part)	16,570	19,899	3,329	27%			23,510	57	3,554	23,510	6,940	42%		23,510				
Lynnwood	35,860	44,756	8,896	73%			54,404	758		45,514	9,654	58%		45,514				
Larger Cities	222,600	277,989	55,389	100%	278,969	(980)	278,969	1,881	0	279,870	57,270	100%	285,969	285,969	7,000	63,369	27%	
Arlington	17,930	24,006	6,076	11%			24,114	239		24,245	6,315	11%		24,918				
Edmonds	39,800	44,865	5,065	9%			44,955	685		45,550	5,750	10%		46,162				
Lake Stevens	28,210	38,400	10,190	18%			38,580	0		38,400	10,190	18%		39,485				
Marysville	60,660	84,620	23,960	43%			85,044	310		84,930	24,270	42%		87,515				
Mill Creek	18,370	20,046	1,676	3%			20,076	0		20,046	1,676	3%		20,224				
Monroe	17,330	21,311	3,981	7%			21,381	28		21,339	4,009	7%		21,766				
Mountlake Terrace	19,990	23,099	3,109	6%			23,154	597		23,696	3,706	6%		24,091				
Mukilteo	20,310	21,642	1,332	2%			21,666	22		21,664	1,354	2%		21,808				
Small Cities	34,435	49,470	15,035	100%	50,400	(930)	50,400	57	0	49,527	15,092	100%	50,400	50,400	-	15,965	7%	
Brier	6,100	6,840	740	5%			6,886	31		6,871	771	5%		6,916				
Darrington	1,345	1,729	384	3%			1,753	15		1,744	399	3%		1,767				
Gold Bar	2,060	2,406	346	2%			2,427	0		2,406	346	2%		2,426				
Granite Falls	3,370	7,624	4,254	28%			7,887	0		7,624	4,254	28%		7,870				
Index	180	218	38	0%			220	0		218	38	0%		220				
Snohomish	9,200	12,139	2,939	20%			12,321	0		12,139	2,939	19%		12,309				
Stanwood	6,220	9,926	3,706	25%			10,155	0		9,926	3,706	25%		10,140				
Sultan	4,655	7,203	2,548	17%			7,361	11		7,214	2,559	17%		7,362				
Woodway	1,305	1,385	80	1%			1,390	0		1,385	80	1%		1,390				
Unincorporated Urban	183,148	271,032	87,884	100%	235,737	35,295	235,737	8,524	0	279,556	96,408		259,339	259,339	23,602	76,191	32%	
Unincorporated UGAs:	10,128	21,928	11,800				17,189			22,479	12,351	100%		17,189				
Arlington	559	1,461	902	1%			1,099	0		1,461	902	7%		1,099				
Darrington	75	611	536	1%			396	0		611	536	4%		396				
Gold Bar	849	927	78	0%			895	0		927	78	1%		895				
Granite Falls	147	1,027	880	1%			673	0		1,027	880	7%		673				
Index	-	-	-	0%			-	0		0	0	0%		-				
Lake Stevens	5,008	8,393	3,385	4%			7,034	492		8,885	3,877	31%		7,034				
Marysville	209	209	-	0%			209	0		209	0	0%		209				
Monroe	1,476	3,471	1,995	2%			2,669	59		3,530	2,054	17%		2,669				
Snohomish	1,359	2,768	1,409	2%			2,202	0		2,768	1,409	11%		2,202				
Stanwood	133	1,526	1,393	2%			966	0		1,526	1,393	11%		966				
Sultan	314	1,536	1,222	1%			1,045	0		1,536	1,222	10%		1,045				
Unincorporated MUGAs:	147,767	214,433	66,666				187,659			222,406	74,639	100%		205,397				
Bothell	23,190	33,883	10,693	12%			29,588	1,361		35,244	12,054	16%		33,400				
Brier	2,099	2,628	529	1%			2,415	0		2,628	529	1%		2,583				
Edmonds	3,620	4,294	674	1%			4,023	4		4,298	678	1%		4,238				
Everett	42,084	50,535	8,451	10%			47,141	3,299		53,834	11,750	16%		50,857				
Lynnwood	24,772	40,447	15,675	18%			34,152	2,328		42,775	18,003	24%		39,845				
Mill Creek	36,377	55,316	18,939	22%			47,710	584		55,900	19,523	26%		53,884				
Mountlake Terrace	20	36	16	0%			30	0		36	16	0%		35				
Mukilteo	12,235	16,245	4,010	5%			14,634	397		16,642	4,407	6%		16,028				
Woodway	-	4,952	4,952	6%			2,963	0		4,952	4,952	7%		4,529				
Larch Way Overlap	3,370	6,097	2,727	3%			5,002			6,097	2,727	4%		5,002				
Other Parts of Uninc SWCo UGA:	25,253	34,671	9,418				30,889			34,671	9,418	100%		30,889				
Paine Field	-	-	-	0%			-			0	0	0%		-				
Lake Stickney Gap	7,161	11,535	4,374	5%			9,778			11,535	4,374	46%		9,778				
Meadowdale/Norma Beach Gap	2,695	3,932	1,237	1%			3,435			3,932	1,237	13%		3,435				
Silver Firs Gap	15,398	19,205	3,807	4%			17,676			19,205	3,807	40%		17,676				
Total Urban	595,713	792,285	196,572		807,832	(15,547)	807,832						807,832	807,832	-	212,119	89%	

/1 - Cities of Everett and Bothell are studying potential sources of additional capacity to 2035. Based on preliminary staff information only (unofficial).

Final Draft 2012 BLR Employment Capacity and 2035 RGS Employment Information															
Based on Current Jurisdictional Boundaries															
December 13, 2012 PAC DRAFT (Includes final draft 2012 BLR capacity information, as of Dec-13-2012)															
Regional Geography:	2011 Total Emp Estimate	DRAFT Total Emp Capacity (2025)	DRAFT Addntl Emp Capacity (2011-2025)	% Distributn: Addntl Emp Cap by Reg Geog	2035 RGS Total Emp (Medium)	Surplus/Shortfall	2035 RGS Total Emp (Medium) Scenario	ALTERNATE 2035 RGS Total Emp (Medium)	ALTERNATE % Distributn: Addntl Emp Cap by Reg Geog	ALTERNATE 2035 RGS Total Emp (Medium) Scenario	Difference: Alt. 2035 RGS minus Orig. 2035 RGS	2011 Jobs/Pop	2035 Jobs/Pop	Annual Average Emp Change (Numeric), 2011-2035	Annual Average Emp Change (Percent), 2011-2035
Metropolitan City															
Everett	93,739	141,900	48,161	100%	145,428	(3,528)	145,428	140,000	100%	140,000	(5,428)	0.91	0.98	1,928	1.7%
Core Cities															
Bothell (part)	13,616	19,116	5,500	22%	18,258		18,258		22%	18,258	-	0.82	0.78	193	1.2%
Lynnwood	24,266	44,185	19,919	78%	41,077		41,077		78%	41,077		0.68	0.90	700	2.2%
Larger Cities															
Arlington	8,659	24,274	15,615	28%	19,974		19,974		28%	19,974		0.48	0.80	471	3.5%
Edmonds	11,679	14,590	2,911	5%	13,788		13,788		5%	13,788		0.29	0.30	88	0.7%
Lake Stevens	3,932	7,178	3,246	6%	6,284		6,284		6%	6,284		0.14	0.16	98	2.0%
Marysville	11,664	31,879	20,215	37%	26,313		26,313		37%	26,313		0.19	0.30	610	3.4%
Mill Creek	4,625	6,787	2,162	4%	6,192		6,192		4%	6,192		0.25	0.31	65	1.2%
Monroe	7,662	12,530	4,868	9%	11,190		11,190		9%	11,190		0.44	0.51	147	1.6%
Mountlake Terrace	6,740	10,263	3,523	6%	9,293		9,293		6%	9,293		0.34	0.39	106	1.3%
Mukilteo	8,369	10,782	2,413	4%	10,118		10,118		4%	10,118		0.41	0.46	73	0.8%
Small Cities															
Brier	319	423	104	1%	405		405		1%	405		0.05	0.06	4	1.0%
Darrington	498	2,508	2,010	20%	2,161		2,161		20%	2,161		0.37	1.22	69	6.3%
Gold Bar	218	754	536	5%	661		661		5%	661		0.11	0.27	18	4.7%
Granite Falls	759	2,591	1,832	18%	2,275		2,275		18%	2,275		0.23	0.29	63	4.7%
Index	20	26	6	0%	25		25		0%	25		0.11	0.11	0	0.9%
Snohomish	4,415	6,682	2,267	23%	6,291		6,291		23%	6,291		0.48	0.51	78	1.5%
Stanwood	3,258	4,986	1,728	17%	4,688		4,688		17%	4,688		0.52	0.46	60	1.5%
Sultan	862	2,330	1,468	15%	2,077		2,077		15%	2,077		0.19	0.28	51	3.7%
Woodway	56	71	15	0%	68		68		0%	68		0.04	0.05	1	0.8%
Unincorporated Urban															
Unincorporated UGAs:															
Arlington	1	81	80	0%	55		55		0%	55		0.00	0.05	2	18.1%
Darrington	2	1,560	1,558	6%	1,046		1,046		6%	1,046		0.03	2.64	43	29.8%
Gold Bar	5	5	-	0%	5		5		0%	5		0.01	0.01	-	0.0%
Granite Falls	1	1	-	0%	1		1		0%	1		0.01	0.00	-	0.0%
Index	-	-	-	0%	-		-		0%	-		NA	NA	NA	NA
Lake Stevens	71	576	505	2%	409		409		2%	409		0.01	0.06	14	7.6%
Maltby	3,190	7,942	4,752	17%	6,374		6,374		17%	6,374		NA	NA	133	2.9%
Marysville	652	714	62	0%	694		694		0%	694		3.12	3.32	2	0.3%
Monroe	117	428	311	1%	325		325		1%	325		0.08	0.12	9	4.4%
Snohomish	456	745	289	1%	650		650		1%	650		0.34	0.30	8	1.5%
Stanwood	198	1,448	1,250	4%	1,035		1,035		4%	1,035		1.49	1.07	35	7.1%
Sultan	4	4	-	0%	4		4		0%	4		0.01	0.00	-	0.0%
Unincorporated MUGAs:															
Bothell	1,380	1,851	471	2%	1,696		1,696		2%	1,696		0.06	0.05	13	0.9%
Brier	69	72	3	0%	71		71		0%	71		0.03	0.03	0	0.1%
Edmonds	156	222	66	0%	200		200		0%	200		0.04	0.05	2	1.0%
Everett	5,250	9,839	4,589	16%	8,324		8,324		16%	8,324		0.12	0.16	128	1.9%
Lynnwood	3,506	7,052	3,546	13%	5,882		5,882		13%	5,882		0.14	0.15	99	2.2%
Mill Creek	2,747	4,571	1,824	6%	3,969		3,969		6%	3,969		0.08	0.07	51	1.5%
Mountlake Terrace	-	-	-	0%	-		-		0%	-		-	-	-	NA
Mukilteo	2,797	6,128	3,331	12%	5,029		5,029		12%	5,029		0.23	0.31	93	2.5%
Woodway	14	259	245	1%	178		178		1%	178		NA	0.04	7	11.2%
Other Parts of Uninc SWCo UGA:															
Paine Field	4,622	8,246	3,624	13%	7,050		7,050		13%	7,050		NA	NA	101	1.8%
Larch Way Overlap	1,630	2,258	628	2%	2,051		2,051		2%	2,051		0.48	0.41	18	1.0%
Lake Stickney Gap	694	694	-	0%	694		694		0%	694		0.10	0.07	-	0.0%
Meadowdale/Norma Beach Gap	68	137	69	0%	114		114		0%	114		0.03	0.03	2	2.2%
Silver Firs Gap	1,311	2,177	866	3%	1,891		1,891		3%	1,891		0.09	0.11	24	1.5%
Total Urban	234,297	400,865	166,568		374,311	26,554	374,311	368,883		368,883	(5,428)	0.39	0.46	5,608	1.9%

FACT SHEET: 2015 COMPREHENSIVE PLAN UPDATE
November 26, 2012**What's New For The 2015 Comprehensive Plan Update And What Does It Mean For You?**

- **Growth Projections for the 2035 horizon are only slightly higher than adopted 2025 Growth Target**
 - At a 2035 population of 955,000, this medium forecast for Snohomish County growth, issued by OFM in May, 2012, is only 45,000 more than the County's adopted target for 2025, and represents a significant reduction in the amount of growth forecasted for the county as a whole.
 - Current land use plans *in total* have adequate provision for accommodating 2035 projected growth. However, according to PSRC's Vision 2040 Regional Strategy (RGS), the capacity for growth is not in the places where growth needs to be directed.
- **PSRC's Vision 2040 Regional Growth Strategy guides where growth will go**
 - Previously, Snohomish County was given a countywide range of growth projections from OFM and required to make an urban and rural distinction. The urban portion was then allocated to cities and unincorporated UGAs using the SCT process. This time, we must attempt to allocate future growth consistent with the Regional Growth Strategy, which includes the concept of "Regional Geographies".
 - Historical growth – including the most recent growth trends seen between 2000 and 2010 – are different than the proportion of growth allocated to Regional Geographies under the RGS. For example, the RGS allocates only 23% of new population growth to unincorporated urban areas. Between 2000 and 2010, these same areas saw 48% of countywide population growth.
 - Conversely, cities would need to accommodate significantly increased shares of countywide population growth. Under the RGS, cities need to accommodate 68% of countywide growth, compared to 43% for the decade 2000-2010.
 - Cities within the same "Regional Geography" will need to work cooperatively through SCT to determine their individual allocations. Regardless of how the details are worked out, it will be important for all jurisdictions to show progress toward meeting the objectives of the RGS.

Regional Geography	Jurisdictions (using city boundaries as of April 1, 2010)	2010-2035 RGS Growth Allocation	2000-2025 Growth Target	2000-2010 Actual Change
Metropolitan City	Everett	26%	8%	3%
Core City	Bothell, Lynnwood	11%	6%	4%
Large City	Arlington, Edmonds, Lake Stevens, Marysville, Mill Creek, Monroe, Mountlake Terrace, Mukilteo	24%	28%	32%
Small City	Brier, Darrington, Gold Bar, Granite Falls, Index, Snohomish, Stanwood, Sultan, Woodway	7%	6%	4%
Unincorporated UGA		23%	42%	48%
	Urban Area Total	89%	89%	92%
Unincorporated Rural		11%	11%	8%
	Countywide Total	100%	100%	100%

- Countywide Planning Policy says the county and cities shall seek compatibility with the RGS. Compatibility with the RGS will be necessary to achieve certification of our plans from Puget Sound Regional Council, although there is potential for some variations where the record identifies local

conditions that support the variation. To achieve compatibility, the County may follow these steps, in hierarchical order:

1. Direct growth into cities within Regional Geography categories as per the RGS;
 2. Direct growth into cities between Regional Geography categories;
 3. Direct growth into unincorporated Municipal Urban Growth Areas likely to be annexed, with an emphasis on urban center locations and along transit corridors;
 4. Direct growth into other unincorporated UGAs affiliated with cities;
 5. Direct growth into other unincorporated UGAs not yet affiliated with cities;
 6. Consider adjustments and trading of UGA areas;
 7. Consider UGA expansion.
- **The pattern of concentrating growth in Southwest County Urban Centers and planning for growth along Transit Emphasis Corridors may need to be reviewed.**
 - Unlike other parts of the Puget Sound region, much of the area available for growth in Snohomish County is in unincorporated urban areas that align with major transit routes, but the RGS shifts focus away from unincorporated urban areas and places more emphasis on growth within the cities.
 - The unincorporated urban areas will no longer have the flexibility to accommodate such a large share of population and employment growth. Cities overall must provide for increased growth in land use plans relative to recent growth trends. It is possible that some cities would plan for a greater share of growth, while others would not.
 - Vision 2040's RGS growth allocations are tied to current city and UGA boundaries. Future annexations would result in upward adjustments to city growth shares and downward adjustments to unincorporated UGA growth shares under the RGS. UGA expansions would count against the rural growth allocation.
 - **Only minor expansions to the Urban Growth Area will be allowed.**
 - The major plan update process previously allowed the County to look afresh at defining the UGA boundary, and making changes to it. While "minor" is not defined in Vision 2040, a combination of the new RGS and the growth forecast is likely to result in a significant reduction in UGA changes compared with previous plan updates.
 - With more limited opportunities for UGA expansions, and with a significantly slower rate of growth, capacity is likely to be gained through higher density infill or up-zoning. These options for increasing capacity may not be widely embraced in the County and there may be pressure, as in the past, to open up additional areas for single family homes to accommodate the population increase.
 - **The County Council has provided the following direction.**
 - The County Council has directed that the scope of the plan update shall be smaller than the scope of previous updates. Staffing levels are significantly reduced since the last plan update and the schedule is reduced by six months.
 - The Council has asked that land use alternatives prepared for their consideration address only the medium "most likely" population forecast from OFM.
 - The plan update will not be addressing rural issues, with the possible exception of Rural/Urban Transition Areas and planning coordination with the Tulalip Tribes.
 - Public involvement will meet requirements for "early and continuous" but will be scaled back and new approaches will be explored.
 - Opportunities to evaluate evolving alternatives will be "front-loaded" with limited opportunity to develop new options later in the process without jeopardizing compliance with the mandated deadline.
 - **The GMA-mandated deadline is June 30, 2015**